Stolen Lives, Marked Souls

Te whakatewhatewhatanga o te Kāhui o ngā Parata o Hato Hoani o te Atua i te kura o Marylands me te Tarati o Hebron

The inquiry into the Order of the Brothers of St John of God at Marylands School and Hebron Trust

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He karakia

Kia hiwa ra, kia hiwa ra! Kia hiwa ra i tenei tuku, kia hiwa ra i tērā tuku, kei apurua koe ki te toto, whakapurua tonu, whakapurua tonu. O ihu o waka, tūruki, tūruki, paneke, paneke, haramai te toki a haumi e! Hui e!, Taiki e!

Mai i te pouri i uhia ki runga i tō ao, ka toro ake i roto i a koutou he kaha me te māia ki te hora i tōu māramatanga ki runga i ngā takakino ā tāngata kē i te urutapu o tō ao. Tahuri kau ana kō taua ao mō ake tonu atu.

Ka haere mai koutou he whakatau mauri, he whakaoranga i te kino, he kimihanga i te tika te whai. He putanga i te whakamā me ngā whakawaitanga o ngā hara nā te hunga e tika kē ana hei kaitiaki mō koutou, hei āhuru mōwai, hei tūārai mou i nga raru o te ao. Ēngari ka whiua kē taua hunga ko taua mana hei taunu me te tūkino i a koutou.

Ko tō pono ka āta puritia e mātou, ko tō māia hei pou herenga i ā mātou, ko te tika kia rangona tō reo ka noho tapu tonu i a mātou.

Mā tēnei karakia ka whai mātou kia oti kō te tika, kia tau kō tō mauri, ka īnoi hoki kia tiaho tonu ko te tōmairangi o te ringa atawhai o te wāhi ngaro ki runga i ā koutou, inaianei, ā ake tonu atu.

Kia tau te mauri, ko te mauri kia tau, kua tau te mauri.

- Waihoroi Paraone Hōterene

Let your soul's light, shimmer and shine from within, and radiate from without. Lest the essence of your being is subdued and suppressed. Be like the scything prow of the canoe, meet the strain and move forward! Embracing all, having purpose, being whole again.

From the depths of darkness, you who have found strength and resolve to shed your light upon the evil that men did violating your innocence. And inasmuch they changed the course of your lives forever.

And so, you came seeking solace, redemption, and justice. A chance to unburden the shame and guilt perpetrated by those charged with your care, safety, and protection, who instead used that power and authority to abuse you.

Your truth we are challenged to uphold, your courage we are bound to honor and your right to be heard we receive with privilege.

In prayer we will seek to do right, to bring you comfort and to instill hope in things yet to come, and in doing so ask that the unseen hand of goodness let its perpetual light shine upon you and give you strength, now and forever more.

Let calm prevail, let it settle, let it be.

- Waihoroi Paraone Hōterene

Pānui whakatūpato

Ka nui tā mātou tiaki me te hāpai ake i te mana o ngā purapura ora i māia rawa atua nei ki te whāriki i ā rātou kōrero ki konei. Kei te mōhio mātopu ka oho pea te mauri ētahi wāhanga o ngā kōrero nei e pā ana ki te tūkino, te whakatūroro me te pāmamae, ā, tērā pea ka tākirihia ngā tauwharewarenga o te ngākau tangata i te kaha o te tumeke. Ahakoa kāore pea tēnei urupare e tau pai ki te wairua o te tangata, e pai ana te rongo i te pouri. Heoi, mehemea ka whakataumaha tēnei i ētahi o tō whānau, me whakapā atu ki tō tākuta, ki tō ratongo Hauora rānei. Whakatetia ngā kōrero a ētahi, kia tau te mauri, tiakina te wairua, ā, kia māmā te ngākau.

Distressing content warning

We honour and uphold the dignity of survivors who have so bravely shared stories here. We acknowledge that some content contains explicit descriptions of tūkino – abuse, harm and trauma – and may evoke strong negative, emotional responses for readers. Although this response may be unpleasant and difficult to tolerate, it is also appropriate to feel upset. However, if you or someone in your circle needs support, please contact your GP or healthcare provider. Respect others' truths, breathe deeply, take care of your spirit and be gentle with your heart.

Design Explanation

We would like to acknowledge and give thanks to seven survivors who helped name and design this report. Their whakaaro stemmed from experiences they never should have had, with hope to be listened to and to be part of ending abuse in Aotearoa. Our hope is you feel listened to, supported and that we believed you.

Nei ra te mihi ki a koutou e ngā rangatira: Adam Powell, Hanz Freller, Justin Taia, Alan Nixon, Eddie Marriott, Darryl Smith and Steve Long.

The name Stolen Lives, Marked Souls was gifted by this group. The abuse of the church had stolen many lives and left enduring marks on the souls of many.

The group worked with illustrator, Chris Sands, to create imagery that reflects their experiences and connection.

The fern represents something growing again, renewing. The monarch butterfly is a meaningful symbol for the group and represents 'their mark'.

The blue hue underlying the design was also suggested by the survivors.

The kowhaiwhai, which appears, in part, across all of our reports represents the sharing of experiences by survivors, the process of healing, the forming of relationships and the resilience and strength to move forward. The kowhaiwhai will come together, in a full circle, in our Final Report.

He Mihi

I. E ngā purapura ora, e ngā mana, e ngā reo o ngā hau e whā, tēnā koutou, tēnā koutou, tēnā koutou katoa. Nei rā te reo o mihi ki a Ngāi Tūāhuriri, Kāi Tahu whānui hoki, tēnā koutou.

II. Ko te taitara o tēnei pūrongo mō ngā tūkinotanga me ngā whakahapatanga a te Rangapū Katorika o Ngā Parata o Hato Hoani o te Atua, ko "Stolen lives, Marked souls" i takohatia mai e ētahi purapura ora o te kura o Marylands, o te Tarati o Hebron me te whare whakapani o Hato Hōhepa. E whakaahua ana te taitara i ngā taumahatanga i pā kino nei ki ngā purapura ora nā runga i ō rātou wheako i ngā ringa o ngā parata i ēnei whakahaere. Tēnā koutou i tā koutou koha mai.

III. Ka nui te whakamānawa a te ngākau ki ngā tini purapura ora i tuari i ā rātou kōrero hautoa mō ngā tūkinotanga i pā kino nei ki a rātou me ngā taumahatanga i tau ki ō rātou ao, me ngā ao o ō rātou whānau. He tuatahitanga tēnei ki ētahi, te whāwhāki i ō rātou wheako. I kawe rātou i a rātou anō i runga i te kaha me te wairua whakaea me kore noa e tūpono ka kore rawa tēnei momo tūkino e pahawa i tētāhi whakahaere hāhi, ā haere ake nei. Kei te mōhio mātou ki ngā uauatanga o te hoki anō ki te hahū ake i ō rātou wheako mō te ketuketunga/uinga, me ngā whakaaweawenga ki ō rātou hauora matawhaiaro. Tēnā koutou i haere whakamua mai.

IV. Ki ngā purapura ora o te Kura o Marylands, o te Tarati o Hebron me te Whare Whakapani o Hato Hōhepa kāore i haere whakamua mai ahakoa rā ngā take, tae atu rā ki ngā ārei whakawhitiwhiti kōrero, e rere atu nei te aroha me te whakaaro nui.

V. Ko te pōuri nui, he maha ngā pārurenga i whai wheako ki ngā tūkinotanga me ngā whakahapatanga i ēnei whakahaere, kua riro ki tua o te ārai. Ka kore rātou e warewaretia. Nei rā te mihi ki a rātou, ki ō rātou whānau me ērā i waha i ngā kōrero a ō rātou kurupounamu kua wehe ki te pō.

VI. Ko Ken Clearwater me Male Survivors Aotearoa ngā pokowhiwhi kaha i tautoko i ngā purapura ora i kuraina ki te Kura o Marylands, ki te Tarati o Hebron me te Whare Whakapani o Hato Hōhepa, i tautoko hoki i ō rātou whānau, i mua tonu, ā, i te wā e haere ana tēnei ketuketunga. Ka mihia tā rātou i kōkiri ai me te tautoko hoki i ngā purapura ora i whakaputa kōrero mō tēnei ketuketunga.

VII. Ka mihi rā ki ngā kaiwhakaatu 'whāki': tētahi parata o mua o Hato Hoani o te Atua, tētahi kaitiaki i Marylands, tētahi kaiwhakarite hōtaka, ā, nāwai ka piki tūranga ki te kaiwhakahaere ki te Tarati o Hebron me Tākuta Michelle Mulvihill i mahitahi me ngā parata o Hato Hoani o te Atua i ngā tau 1990, ā, i hoatu taunakitanga i te whakawātanga tūmatawhānui o te ketuketunga. I whakakaha ake ngā taunakitanga a ēnei kaiwhakaatu i ngā whakatau mō tēnei pūrongo.

VIII. Ka mihi rā ki te purapura ora, ki a Darryl Smith, nōna ka takahi i te ara roa o te manatika ka whakaputa i a ia anō āna kōrero mō te nui o ngā tūkinotanga me ngā whakahapatanga i pā ki a ia i ngā ringa o ngā Parata o Hato Hoani o te Atua, ki Aotearoa Niu Tireni nei, me Ahitereiria hoki.

IX. Ka mihi rā a Cooper Legal i ā rātou mahi ki te āwhina i ngā purapura ora e pai ai tā rātou whai manatika mō ngā tūkino i pā ki a rātou mai i te Hāhi Katorika, i a Hato Hoani o te Atua, i Ngā Pirihimana o Aotearoa me ngā ratonga a te Kāwanatanga Whakawhanake Pāpori, me te Mātauranga.

X. Ka mihi rā te kōtuituinga tangata a ngā purapura ora me ngā kaihāpai, tae atu rā ki 'Network of Survivors of Abuse in Faith-based Care; SNAP Aotearoa New Zealand (Survivors Network of those Abused by Priests); me te National Association of Adult Survivors of Child Abuse'.

XI. E whakamānawa atu nei i ngā kupu āwhina ki a mātou mai i tō mātou Pou Tikanga, me ngā karakia i takohatia ki te ketuketunga ka noho hei anga mō tēnei pūrongo . E hāngai pū ana ki te tikanga Māori, a, he whakaū i te kawenga o te kaupapa i runga i te tika.

XII. Ka mihia rā ngā kaiārahi me ngā rōpū tohutoro o te ketuketunga, tae atu rā ki a SAGE me Te Taumata, nā rātou mātou i āwhina me ā rātou kōrerorero, kupu āwhina, whakapae anō hoki.

XIII. Ka mihi ake ki te hunga whai pānga mai ki te ketuketunga i tautoko i a mātou ki te whakaputa i tēnei pūrongo : tō mātou hekeretari, tae atu rā ki ngā mātai aronga, ngā rōia, ngā kaupapa here, ngā rangahau, ngā pāohotanga, ngā tūhonohonotanga, ngā kōrero a ngā purapura ora, te tautoko mai a ngā pakihi, ngā ratonga tautoko, ngā tari whakahaere me ngā ringa hāpai. Ka rere anō hoki ngā mihi ki te rōpū ārahi i te ketuketunga me ngā mema o te paewhiri i āwhina i te taha ki te ture. Tēnā koutou i whakapeto ngoi ki te tautoko i ngā purapura ora me te whakatōpū i ngā pārongo me ngā taunakitanga i taea ai e mātou te kite mō te wā

Acknowledgements

I. All survivors, all authorities, all voices from the four winds, we acknowledge and greet you all. We also extend our warm regards to manawhenua Ngāi Tūāhuriri,and Kāi Tahu.

II. The title of this report into abuse and neglect by Catholic Hospitaller Order of the Brothers of St John of God, "Stolen lives, Marked souls" was gifted to us by some of the survivors of Marylands School, Hebron Trust and St Joseph's Orphanage. The title reflects the losses suffered by survivors a result of what they experienced at the hands of the brothers at these institutions. We thank you for your koha (gift).

III. We are grateful to the many survivors who courageously shared with us their accounts of the tūkino (abuse, harm and neglect) they suffered and the enduring impact this has had on their lives and those of their whānau. For some, this was the first time they had disclosed their experiences. They did this with strength and resolve in the hope that such tūkino is never allowed to happen again in faith-based institutions in Aotearoa New Zealand. We recognise that reliving their experiences for the Inquiry took a significant toll on their personal wellbeing. We thank you for coming forward.

IV. To those survivors of Marylands School, Hebron Trust or St Joseph's Orphanage who were not able to come forward in person for whatever reasons, including because of communications barriers, we send our aroha and understanding.

V. Tragically, many who experienced abuse and neglect at these institutions are no longer with us. They are not forgotten. We acknowledge them and their whānau, especially those who spoke on behalf of their loved ones who have now passed away.

VI. Ken Clearwater and Male Survivors Aotearoa tenaciously supported survivors who attended Marylands School, Hebron Trust and St Joseph's Orphanage, and their whānau, before and during this Inquiry. We acknowledge this advocacy and the personal support they gave survivors who came forward to the Inquiry.

VII. We acknowledge the 'whistleblower' witnesses: a former St John of God brother, a Marylands caregiver, a programme coordinator and later promoted to a supervisor at Hebron Trust and Dr Michelle Mulvihill who worked for the St John of God brothers during the 1990s and gave evidence at the Inquiry's public hearing. The evidence of these witnesses has strengthened the findings of this report.

VIII. We acknowledge survivor Darryl Smith who, in his lifelong quest for justice, self-published a number of accounts of the abuse and neglect he suffered at the hands of the St John of God Brothers both here in Aotearoa New Zealand and Australia.

IX. We acknowledge Cooper Legal for their work with survivors to assist them to seek justice for the tūkino they suffered from the Catholic Church, St John of God Order, NZ Police, and Social Development and Education State agencies.

X. We acknowledge all survivor networks and advocates, including the Network of Survivors of Abuse in Faith-based Care; SNAP Aotearoa New Zealand (Survivors Network of those Abused by Priests); and the National Association of Adult Survivors of Child Abuse.

XI. We are grateful to the advice we received from our Pou Tikanga and for the karakia gifted to the Inquiry that frame this report. This is consistent with tikanga Māori and ensures that the kaupapa discussed is held safely and in an appropriate manner.

XII. We acknowledge the Inquiry's advisory and reference groups, including SAGE and Te Taumata, as they assisted us with their kōrerorero, advice and comments.

XIII. We thank all of those in the Inquiry who have supported us to produce this report: our secretariat, including investigations, solicitors, policy and research, communications, engagement, survivor accounts, business support services, and governance and assurance personnel. We also thank counsel assisting the Inquiry and legal assistance panel members. You have all worked tirelessly to support survivors and to bring together the information and evidence that has enabled us to reveal for the first time the full picture of what happened at Marylands School and Hebron Trust and why.

Coral Shaw

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"The Catholic Church in New Zealand engaged a group of untrained, religious strangers to educate children in need of care at Marylands. These men then used and abused their spiritual and physical power and dominance, destroyed the lives of children and then discarded them."

Dr Michelle Mulvihill

WHAKARĀPOPOTOTANGA RĪPOATA

EXECUTIVE SUMMARY

Whakarāpopototanga ripoata
Executive Summary

1. Marylands School was established by the Catholic Hospitaller Order of the Brothers of St John of God (the Order) in Christchurch in 1955. The Order is one of the oldest communities of religious clergy in the Catholic Church. Its members take vows of poverty, chastity and obedience, and devote their life to serving the sick and socially disadvantaged. But the school was a place of depravity, sexual, physical and spiritual violence towards the tamariki and rangatahi in the care of the brothers. The work of Hebron Trust, run by the Order, began in 1986. It too became a place where rangatahi were subjected to sexual and physical violence at the hands of one of the brothers of the Order. Survivors have referred to these places as 'hell on earth'.

2. Right up until the late 1980s, successive governments deemed it appropriate to place disabled children and young people in special facilities to be trained, rather than them staying at home and being educated with other tamariki and rangatahi in schools. The tamariki and rangatahi who were placed in the care of Marylands School (from the age of six) and Hebron Trust (usually teenagers, although some as young as eight), were among the most vulnerable in our community. Many of the boys placed at Marylands were disabled or had learning or behavioural needs, and those in the care of Hebron Trust were often 'street kids'. Many were rangatahi Māori, in need of safety, shelter and support.

3. Typically, boys were sent to Marylands in the belief it was the best place for them, where their care and learning needs would be met by the St John of God brothers, under the protection of the Catholic Church and God. Instead, they suffered extreme abuse and neglect at the hands of those entrusted to protect them.

4. The Catholic Church and medical professionals assumed that tamariki and rangatahi were safe and being cared for. The State appeared indifferent to the purpose of the school. Anxious parents were led to believe Marylands was an innovative educational facility and the brothers had expertise in educating disabled children. Police, the courts and other social agencies referred survivors to Hebron Trust, relying on its reputation for supporting young people and because of Brother McGrath's perceived standing in the community.

5. In fact, the Christchurch community, parents, government, medical and other experts were groomed and deceived by the Order. The tamariki were not receiving a proper education and many brothers within the Order were raping, beating and severely neglecting the needs of those in their care. Often, survivors were not believed when they told people of the abuse. Seeing sexual abuse as 'a sin' and not a crime, bishops and leaders within the wider Catholic Church and the Order took steps to protect the reputation of the Order's brothers when allegations of abuse were made.

Te Kura o Marylands
Marylands School

6. In 1954 the Bishop of Christchurch invited the Order to expand its operations to Christchurch and offered it the Marylands property. The Order accepted and established Marylands School, a residential special school for disabled boys. The establishment of the school, which separated disabled children from their families, communities and peers, reflected the strength of

   - eugenics (a set of beliefs and practices that aimed to improve the genetic quality of the human population); and
   - ableism (which is the active expression of eugenics and a form of social devaluation and includes the conscious or unconscious discrimination in favour of able-bodied and able-minded people);

   that informed this country's social policy at the time.

7. The Order sent five brothers from Australia to staff the school. Most were untrained as teachers and without any specialist skills to educate disabled children. All five were later accused of abuse within the first year of the school opening. These included allegations that some tamariki were abused daily.

8. Clinical psychologist Dr Michelle Mulvihill, who worked for the Order in Australia, said during the Royal Commission's Marylands School hearing: "The Catholic Church in New Zealand engaged a group of untrained, religious strangers to educate children in need of care at Marylands. These men then used and abused their spiritual and physical power and dominance, destroyed the lives of children and then discarded them."[1]

9. Nearby to Marylands School was St Joseph's Orphanage, run by a different Catholic institution, the Sisters of Nazareth.[2] The Royal Commission has heard evidence from orphanage survivors that they too were abused by the Order's brothers.

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[1] Transcript of closing statement of Dr Michelle Mulvihill from the Marylands School public hearing, TRN0000417 (Royal Commission of Inquiry into Abuse in Care, 17 February 2022), para 619.

[2] When Marylands moved to Halswell.

10. Although the State, including successive ministers of the Crown, supported the establishment and ongoing funding of the school for 30 years, its monitoring of the school, and the children and young people there, was grossly inadequate. When children did disclose abuse to police and social workers, they were not believed.

11. Marylands took in boys from throughout Aotearoa New Zealand including State wards and those with learning and behavioural needs.

12. The Order did not record whether boys were disabled, or their ethnicity, and did not adequately assess their needs. The school failed profoundly in its core task, to provide an education to many of the boys sent there. Children were often put to work in the laundry, kitchen and on the land rather than being taught in class. Their education or training was often completely neglected.

13. Of the 537 boys who attended Marylands School, more than one in five (118) reported abuse while in the school's care. Survivors told the Inquiry that the brothers routinely raped, masturbated and indecently assaulted the young boys in their care. They forced boys to masturbate and perform oral sex on them. Abuse was so normalised, some boys abused one another. There were times when two or more brothers sexually abused a child at the same time or made the boys perform sexual acts on each other in front of the brothers. Sometimes this happened behind closed doors. At times, it was inflicted in plain sight of others as a punishment or threat. Children were threatened and physically beaten into complying with the wishes of the brothers and lived in constant fear.

14. As well as the physical violations, the brothers exploited religious beliefs and teachings to abuse, but also prevent disclosures from the boys and young people as they feared retribution by God. Some brothers characterised the sexual abuse as spiritual cleansing, used religious language as justification for what they were doing or abused boys as part of religious activities. One survivor described being raped on the marble altar table. Another was told: "If you be a good little boy, you'll get to heaven."

15. The brothers, having arrived from Australia (noting that Brother McGrath was a New Zealander) had no knowledge of Aotearoa New Zealand culture or any education about te ao Māori, or about the cultural needs of any other groups. The Catholic Church and Bishop of Christchurch did not ensure the Order's members recognised the relevance of te Tiriti o Waitangi when caring for tamariki and rangatahi Māori and did not provide care that was consistent with te Tiriti o Waitangi. Some brothers had racist and negative attitudes toward Māori students that they demonstrated overtly, including calling the boys 'niggers'. They denigrated cultural practices and, in one instance, played on a Māori boy's fear of death by showing him a dead body.

16. Amid so much physical violence and sexual abuse, life at Marylands was terrifying and unpredictable. Some boys witnessed violence that they believe may have led to the deaths of other boys. Sexually explicit behaviour and pornographic material was impossible to avoid. Boys talked about ending their lives. There was no escape. The boys were isolated, and their claims were not believed. Cruelty permeated the air.

Te Tarati o Hebron
Hebron Trust

17. After the Order left Marylands in 1984, the Bishop of Christchurch invited the brothers to establish a youth ministry to support at-risk young people, many of whom were Māori.

18. The State formally recognised Hebron Trust as an appropriate place to care for young people in 1990, by approving its registration as a State service provider.

19. Through Hebron Trust, the Order provided young people with temporary housing. Brother Bernard McGrath, one of the Order's most prolific serial rapists,[3] was the sole brother responsible for the operations. He used his position at Marylands to rape and sexually and physically abuse many of the children. At Hebron Trust, he continued his prolific abuse of rangatahi, which escalated in scale and nature.

20. Brother McGrath was able to reach into all areas of the Christchurch community, unchecked and unquestioned, to target its young people, particularly rangatahi Māori. Shockingly, although leaders within the Order knew of allegations of his abuse at Marylands, the reports of abuse were not investigated. This allowed Brother McGrath to carry on his reign of terror at Hebron.

21. The full scale of Brother McGrath's abuse will likely never be known. We do know that 28 individuals, most aged under 18, reported to the Order that they had been abused in Hebron Trust's care by Brother McGrath along with one allegation of abuse by a lay member of staff. Many of those young people were homeless, referred by social service agencies or by the criminal and youth justice system. The brutality and severity of McGrath's abuse towards Hebron Trust victims was at the top of the scale in its nature, severity and long-term damage to survivors.

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[3] Under Aoteroa New Zealand criminal law, someone can not be charged with rape of a male. Instead, the charge is 'anally sexually violated'. However, for clarity and familiarity for the reader, we use the term 'rape'.

Ngā Pānga Takakino
Effects of abuse

22. The tūkino (abuse, harm and neglect) had many effects on the boys at Marylands School, Hebron Trust and St Joseph's Orphanage. Some became violent and exhibited inappropriate sexual behaviour. In the long term, some had lasting and painful physical injuries from the abuse. About three-quarters of survivors we spoke to had turned to drugs or alcohol as a way of coping with the abuse they suffered, some while still at school and, often, this led to criminal offending and joining gangs. Survivors told us of their ongoing mental distress, physical health issues and sexual confusion.

23. The tūkino resulted in loss of trust and religious faith as well as an inability to form meaningful friendships and relationships with friends, children and partners. The lack of education and/or training at Marylands School severely limited job opportunities with most survivors only able to secure low paying, menial work.

24. Many told us they had contemplated or attempted suicide. Tragically, others have lost their lives this way.

Ngā nawe me te kawenga
Complaints and accountability

25. From the late 1970s through to the early 2000s, leaders of the Order were told of numerous allegations against brothers.

26. Many children reported abuse, including to the Order's brothers, the Order's leaders, social workers and police. Mostly these children were not believed, their experiences denied. As disabled people they were not considered credible. In nearly all cases, the Order failed to act on these reports.

27. A 1977 anonymous complaint of sexual abuse against brothers Moloney and McGrath to the Order's Sydney-based Provincial was disregarded. However, later that year, the Order applied its 'geographic cure'. Moloney was transferred to the Order's operations in the Vatican. McGrath was transferred back to Kendall Grange, the Order's institution for disabled children in Australia. There he continued his abuse until being posted back to Christchurch to eventually establish and head Hebron Trust.

28. Of the 37 brothers from the Order who ministered in the Christchurch community when the Order operated Marylands, 21 had allegations of some form of abuse made against them. Nineteen brothers had specific allegations of child sexual abuse made against them.

29. Throughout the 28 years Marylands operated, on average there would be seven brothers at a time appointed to the Christchurch community, five of whom would be alleged perpetrators of abuse, and four of these five would be alleged perpetrators of sexual abuse. On average, abusers would stay longer at Marylands than those who were not alleged to have abused.

30. There were two police investigations, 10 years apart, but these were hindered by a lack of co-operation from the brothers and the Order. The Australian-based Order spent significant sums on legal costs over several years to try to stop extradition of several brothers to face trial in Aotearoa New Zealand. Ultimately, the brothers returned to Aotearoa New Zealand.

31. In 1993, Brother McGrath was sentenced in Christchurch to three years' imprisonment for 10 charges of indecencies committed upon tamariki and rangatahi between the ages of eight and 16 years. But it was not until 2006 that brothers Garchow and Moloney would be returned to Aotearoa New Zealand to face justice along with Brother McGrath and Brother IU.

32. Brother Moloney, who headed Marylands School in the 1970s and returned to the Christchurch community in the 1980s, was convicted in Christchurch in 2008 on seven charges,[4] involving five complainants,[5] and sentenced to two years and nine months' imprisonment.[6] He was released from prison on parole in September 2009 and returned to Australia. The Order told media: "Brother Moloney is still a member of the Order and will be accommodated within the Order in Australia."[7] He died in Sydney in 2019.

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[4] NZ Police Report Form, NZP0012793, p 6; Te Rōpū Tautoko Marylands Briefing Paper 5: Summary of the Hospitaller Order of St John of God's response, knowledge and treatment of other alleged offenders, as amended on 29 September 2021, CTH0015243, para 96.

[5] NZ Police Report Form, NZP0012793, p 6: See also Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 96.

[6] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 96; Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 836; NZ Police Report Form, NZP0012793, p 6.

[7] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 96.

33. The trials of Brother Garchow and Brother IU did not take place. In July 2008, due to illness of survivors and Brother Garchow himself, a permanent stay of the proceedings was entered.[8] He died in March 2011. In what was seen by police as an attempt to discredit the complainants in his case, Brother IU was successful in his application to have each undergo a psychological examination. The delays this caused, along with the historic nature of the allegations meant, based on fair trial rights, Brother IU was able to successfully apply to have all charges stayed or dismissed on the day his trial was going to start.

34. In 2006 Brother McGrath was convicted in Aotearoa New Zealand on 22 charges in relation to his time at Marylands of "doing and inducing indecent acts on boys under 16 years of age".[9] The sexual assaults included touching, fondling, masturbation and oral sex but he was found not guilty of charges of anal rape.[10] He was sentenced to five years' imprisonment.[11] The sentencing judge noted that the distressing "victim impact reports... refer to anger, fear, anxiety, nightmares, low self-esteem, post-traumatic stress disorder and, in many cases, gross problems in later life".[12] Brother McGrath was released from prison in 2008.[13]

35. In 2018, Brother McGrath was convicted in Australia and sentenced to 33 years' imprisonment for 64 offences against 12 boys at Kendall Grange over seven years and in 2019, he was convicted and sentenced for a further 29 years for crimes against another 15 Kendall Grange boys. Some of these convictions were for sodomy.

36. In total, Brother McGrath was convicted in five court cases, two in Aotearoa New Zealand and three in Australia, of more than 100 offences over three decades. He will likely spend the rest of his life in an Australian prison

37. The police investigations and court processes further disadvantaged survivors. Some evidence was set aside because survivors were seen as unreliable or open to suggestion because of their disability. Police did not keep any data on the nature of survivors' disabilities, nor did they call in specialists to help them communicate with complainants who had a disability. Police also failed to provide culturally appropriate processes when engaging with Māori and Pacific people.

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[8] Te Rōpū Tautoko Marylands Briefing Paper #5, Summary of the Hospitaller Order of St John of God's response, knowledge and treatment of other alleged offenders as amended on 29 September 2021, CTH0015243, para 57; See also Witness statement of Peter Read, NZP0042570 (Royal Commission of Inquiry into Abuse in Care, 5 August 2021) para 3.15

[9] NZ Police Report Form, Detective Inspector Peter Read, regarding the completion of Police operation, NZP0012793 (23 May 2010), p 1.

[10] R v McGrath HC Christchurch CRI-2004-009-002462, CTH0011911 (27 April 2006), para 4.

[11] R v McGrath HC Christchurch CRI-2004-009-002462, CTH0011911 (27 April 2006), para 25.

[12] Sentencing notes, Chisholm J, R v McGrath HC Christchurch CRI-2004-009-002462, CTH0011911 (27 April 2006), NZP0030905, para 6.

[13] ABC Australia notes from sentencing of Brother McGrath, CTH0008331 page 47.

38. NZ Police agreed it could be difficult for disabled people to get a fair hearing because criminal trials depended on clear communication, an ability to handle cross-examination, and an understanding of complex procedures in court that can move very quickly.[14] The criminal justice system did not serve victims of sexual abuse and their whānau well, whether disabled or not.

39. We were told by survivors and their whānau that the criminal justice process failed to take account of survivors' disability or allow them to have caregiver support while giving evidence. They also said the criminal justice process made no allowance for their disability during cross-examination and was too quick to disallow their evidence rather than providing appropriate support.

40. Although institutional criminal accountability is within NZ Police's function, no consideration was given to whether the Order, its senior leaders or both, might be criminally responsible.

41. The presence of the Order in Aotearoa New Zealand was facilitated by the Bishop of Christchurch who failed to provide adequate oversight, as required, over the Order's operations at both Marylands and Hebron. In addition, once the reports of abuse became public knowledge in 2002, Bishop Cunneen failed to take any responsibility for the Order's conduct. Instead, he expressed discontent for the media attention and spoke out to protect the reputation of the church.

Ngā wāwāhinga o ngā here tikanga tangata
Possible breach of human rights obligations

42. The evidence indicates the Crown may well have breached human rights obligations to those in care at Marylands School and Hebron Trust. There are also potential questions about the liability of the Order of St John of God and members of the Order for abuse of those who received services from Hebron Trust. Liability could potentially arise under the New Zealand Bill of Rights Act for acts done after the Bill of Rights came into force on 25 September 1990.[15]

43. There would no doubt be hurdles for any claimant and it is not the Inquiry's function to determine liability, nor can we, under the Inquiries Act 2013. That is a matter for the courts or other appropriate bodies. But our findings give rise to questions about liability, including for torture[16] and other fundamental human rights breaches. We signal possible recommendations in the Final Report that further steps be taken to determine liability of the Crown, the Order and relevant individuals.

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[14] Transcript of evidence of Peter Read from the Marylands School public hearing, TRN0000416 (Royal Commission of Inquiry into Abuse in Care, 16 February 2022), p 523.

[15] New Zealand Bill of Rights Act 1990, ss 3(b) and 1(2).

[16] Refer paragraph 298 to paragraph 313 of Chapter 5, Potential Breaches of Human Rights Law.

44. In the meantime, we encourage the Crown and the Order to take good-faith steps to assess their liability in light of this report. We also encourage proactive action to ensure that survivors of abuse at Marylands School and Hebron Trust have effective and efficient access to justice.

45. We must enable a restoration of mana, and for healing to occur. Fundamental changes to those institutions and their systems that caused that harm will be required if we are to ensure that such horrific harm and exploitation of tamariki and rangatahi does not happen again. Such change will assist Aotearoa New Zealand to become a fully socially cohesive and inclusive society where whānau are thriving, healthy, safe, and are respected.

Te Tiriti o Waitangi

46. The State, the Catholic Church and the Order did not provide care consistent with the principles of te Tiriti o Waitangi.

47. Treaty jurisprudence recognises that obligations may extend beyond the Treaty partners and in particular may follow tamariki Māori whether in care of the State or faith-based institutions. With some faiths, including the Catholic Church, this relationship with Māori stems back to the signing of te Tiriti o Waitangi.

Ā mātou kitenga
What we found

48. We make 48 findings in this report. They set out the failures of the Catholic Church, the Order and the State.

49. In summary, the State registered and financially supported Marylands School. That school did not provide adequate education and safeguarding of the tamariki who were sent there – abused and neglected, and deprived of their human rights. The State registered Hebron Trust and government agencies referred rangatahi at risk to Hebron Trust without ensuring their care and safety. The Crown failed to ensure that the care provided at both Marylands School and Hebron Trust was consistent with the principles of te Tiriti o Waitangi. The State also failed to ensure that there was proper accountability for the abuse and neglect inflicted by the Order.

50. The Catholic Church and the Order established Marylands School and Hebron Trust to the benefit of both but did not safeguard the tamariki and rangatahi in their care or provide them with support, learning or understanding of te ao Māori. The brothers caused immeasurable tūkino to these tamariki and rangatahi, actively sought to evade accountability and did not consistently provide the support and healing that the survivors and their whānau deserved.

51. The Order has never proactively sought out survivors who attended Hebron Trust facilities and offered help or puretumu torowhānui, holistic redress. Neither has the Catholic Church, the Order, any successive bishop or Catholic Church entity. Neither the Catholic Church nor the Order have ever initiated any form of investigation into why abuse at Marylands was so prolific.

52. This report documents how some individual abusers from the Order were convicted of a relatively small number of the hundreds of potential offences revealed to us by survivors or their whānau. But this is not a story about 'bad apples'. This report spotlights that the Catholic Church, the Order and State must each bear responsibility for the tūkino that was suffered by so many boys, the impacts on their lives, and their whānau and their support networks, because it was the Church, the Order and State systems and institutions that shamefully enabled the abuse and ignored it or covered it up.

53. The Catholic Church, the Order and State have not yet been found accountable for the magnitude of the tragedy that unfolded at Marylands School and Hebron Trust, or for failing to address that tragedy. Without accountability, there can be no confidence that such events will not be able to occur again. What we found here reinforces our view that the puretumu torowhānui, holistic redress, system and scheme that we recommended in our December 2021 report must be applied to both State and faith-based institutions.

54. The findings in this report are also a reflection of broader systemic issues that continue to persist today. We will address these systemic issues in our Final Report in which we will make recommendations for change.

55. Aotearoa New Zealand must heed the calls for accountability and justice. Fundamental changes will be required if we are to ensure that such horrific harm and exploitation of tamariki and rangatahi does not happen again.

Tōpūtanga Whakatau

Consolidated Findings

Tōpūtanga Whakatau
Consolidated Findings

A. Like all inquiries under the Inquiries Act 2013, this Royal Commission does not have the power to make findings of criminal or civil liability – only the courts can do that.

B. The Royal Commission of Inquiry finds:

Horopaki
Context

1. Prior to the Order's expansion into Aotearoa New Zealand in the 1950s, there is no evidence that the Order took steps to understand te Tiriti o Waitangi, te ao Māori, or the nature of the relationship between Māori and the Crown.

2. In the 1950s societal views (supported by regulatory frameworks) of ableism and eugenics supported the removal of disabled children and adults from their whānau to place them in institutions, including residential special schools.

Ngā Ara Taurima
Pathways into care

I te Kura o Marylands
At Marylands School:

3. Tamariki were referred to Marylands School by State agencies, health professionals and parents. It was established for disabled boys but many boys who attended were not disabled. Some of the boys were placed at Marylands as State wards, some had behavioural problems and were excluded from their local school, and some were placed at Marylands because their whānau were either advised or felt they would get a better education.

4. The psychological, learning and educational needs of tamariki placed at Marylands by the State, or privately, were often inadequately assessed at the time of placement. Their emotional and physical needs were not met nor was their need for a loving home.

5. Private placements to Marylands were charged attendance fees and other associated costs that placed significant strain on some whānau and prevented enrolment and attendance.

I Te Tarati o Hebron

At Hebron Trust:

6. During the earlier years of its existence, Hebron Trust was informal, largely unregulated and its operations were mostly unmonitored by the Order or by the Bishop of Christchurch.

7. Police and the courts often referred rangatahi to Hebron Trust to receive services and guidance but without proper assessment as to the appropriateness of this placement. Many of the rangatahi were homeless, were in the justice system and suffered from substance abuse issues. The number of rangatahi Māori in the care of Hebron Trust was disproportionate to the population of Christchurch.

Te āhua me te whānui o te tūkino me te whakangongotanga
Nature and extent of abuse and neglect in care

I te Kura o Marylands

At Marylands School:

8. Extensive and extreme abuse and neglect of tamariki occurred including:

   - sexual abuse by brothers
   - sexual and physical abuse by boys at the school towards other boys
   - physical abuse, sometimes of an extreme nature by brothers
   - pervasive neglect including neglect by brothers of basic needs as well as cultural, medical, emotional needs, as well as their need for a loving home
   - pervasive educational neglect by brothers, children's development and progression in learning was not prioritised
   - emotional and psychological abuse, including witnessing violence and sexual abuse and perpetual fear
   - religious abuse
   - cultural abuse.

9. Survivors experienced racism.

10. Marylands had selection processes, policies around admissions and teachability, and standards of care for disabled children, that we now understand to be reflective of ableism.

I Te Tarati o Hebron

At Hebron Trust:

11. Extensive and extreme abuse occurred including:
    - sexual abuse, by Brother McGrath
    - physical abuse, sometimes of an extreme nature
    - emotional and psychological abuse, including witnessing violence and sexual abuse, and perpetual fear
    - religious abuse
    - cultural abuse.
12. Survivors experienced racism.

I ngā kura o Marylands me Te Tarati o Hebron

At both Marylands School and Hebron Trust:

13. The evidence from survivors to be credible accounts of abuse and neglect occurring.
14. The sexual abuse that occurred at Marylands and Hebron Trust was pervasive and in many cases, severe and extreme. It caused the children and young people subjected to it, mental and physical pain and suffering. There is evidence of sexual abuse being used as punishment, as well as to intimidate.

Te whānuitanga o ngā mahi tūkino me te whakangongotanga
The extent of abuse and neglect

15. It is likely that more disabled boys were abused at Marylands than the Inquiry has knowledge of. There are significant barriers to disclosure and reporting of abuse by disabled survivors.
16. Based on the evidence the Inquiry has received, approximately half of the rangatahi who used Hebron Trust's services were rangatahi Māori. As set out in He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui, Māori and Pacific people face high barriers to disclosing abuse.[17] There are likely to be Māori and Pacific survivors who have never reported their abuse, neglect or both and who have not received assistance or support.
17. Even on the basis of the incomplete data, and the known barriers to disclosure and reporting, when comparing Marylands and Hebron Trust to other inquiries around the world that have investigated similar abuse, we are aware of no other circumstances or institution where the sexual abuse has been so extreme or has involved such a high proportion of perpetrators over the same extended period of time.

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[17] Royal Commission of Inquiry into Abuse in Care, He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhanui (vol 1, 2021) MSC0008086, p 102.

Ngā panga o te tūkino me te whakangongotangaa
The impacts of abuse and neglect

18. All survivors of abuse and neglect from Marylands, Hebron Trust and St Joseph's Orphanage who the Inquiry has heard from have experienced significant and lifelong impacts to many facets of who they are, their relationships, their potential, and the life they lead. These impacts include:

    - physical injury, health and illness
    - devastating mental health impacts, including self-harm and suicidality
    - criminal offending and addiction including substance abuse
    - struggles with sexual and gender identity
    - loss of faith and spirituality
    - financial hardship and homelessness
    - lack of education, leading to further financial hardship and employment insecurity
    - inability to trust and difficulties in relationships with children, partners and whānau.

19. Some Māori survivors were also harmed by targeted racial abuse and cultural neglect which resulted in additional harmful impacts.

20. Disabled survivors experienced additional trauma from targeted abuse, that we now understand to be ableist abuse. Where survivors weren't able to verbalise their trauma, inadequate supports were in place to assist them, such as supported decision-making or the use of augmented alternative communication.

21. We have received evidence to suggest that some of those tamariki and rangatahi who were abused, neglected or both at Marylands, Hebron Trust and the orphanage have taken their own lives, or have died as an indirect result of their experiences.

Te Kawenga
Accountability

Te mahi o te Kāwanatanga
The role of the State

22. The State registered Marylands as a private special residential school with knowledge that the brothers were not suitably qualified to teach, but could train and care for disabled boys enrolled at Marylands. The State only carried out minimal monitoring of Marylands.

23. The Order's operating model was dependent on State funding. If State funding had not been provided, the Order would have not been able to establish, nor continue operating, Marylands school in Aotearoa New Zealand.

24. The Crown failed to ensure the care provided at Marylands and Hebron Trust was consistent with the principles of te Tiriti o Waitangi, specifically tino rangatiratanga, partnership, active protection, kāwangatanga, mutual recognition, respect and equity.

25. Police made poor decisions in 1993 by agreeing not to interview Brother McGrath if he returned to Aotearoa New Zealand, and by later 'custody clearing' additional allegations of sexual offending received when he was imprisoned.

26. Social Workers and police failed to investigate, document or act on reports of abuse by boys who ran away, or were wards of the State attending Marylands school and Hebron Trust.

27. The criminal justice system did not ensure access to justice for tamariki and rangatahi Māori, and especially for disabled children and young people, including through the provision of accommodations, such as communication assistance or navigations, and there was a lack of culturally appropriate support.

28. The State has failed to accept any responsibility for the harm caused to those abused at Marylands and Hebron Trust.

29. Police failed to provide culturally appropriate processes when engaging with Māori and Pacific survivors during the 2002/2003 Operation Authority investigation.

Te mahi o te Hāhi Katorika
The role of the Catholic Church

Te mahi o te Pīhopa Katorika o Ōtautahi
The role of the Catholic Bishop of Christchurch

30. The Bishop of Christchurch failed to properly assess the Order's suitability to run Marylands as an educational facility.

31. The Catholic Church, Bishop of Christchurch and the Order did not ensure the Order's members recognised the relevance of te Tiriti o Waitangi when caring for tamariki and rangatahi Māori and did not provide care that was consistent with te Tiriti o Waitangi.

32. The Bishop of Christchurch failed to ensure the Order responded adequately to reports of abuse and claims for redress from 1993, and appeared to be mostly concerned with minimising any harm to the Catholic Church's reputation.

Te mahi o te Rangapū Hato Hoani o te Atua
The role of the Order of St John of God

33. The Order failed to prepare the boys placed at Marylands for inclusive community living to enable full and ordinary lives. The education and training provided was not tailored to recognise their different skills and experiences. Students at Marylands spent a lot of their time working in the laundry, kitchen or on the grounds of the school.

34. The Order repeatedly failed to pass allegations of sexual abuse against brothers on to police, in some instances. Instead the Order's leadership transferred perpetrators elsewhere while taking no steps to safeguard other potential victims from these individuals.

35. The Order missed a clear opportunity to respond to reports of abuse by Brother Moloney and Brother McGrath in 1977. Had the Order taken appropriate action at that time, later prolific offending by these two brothers could have been prevented.

36. If the Order had responded appropriately to the allegations of abuse by Brother DQ in Australia, he never would have been transferred to Marylands to carry out further abuse.

37. The Order's three provincials at the time, Brother Brian O'Donnell, Brother Joseph Smith and Brother Peter Burke, all failed to act on known allegations of sexual abuse involving its members.

38. The Order appeared to have a practice of not making or keeping records of reports of abuse it received about brothers, and more generally. This absence of documentation prevented the Order's ability to see the true extent of the issues and take appropriate steps in response. It has also meant limited records were kept regarding the ethnicity or disability of boys at Marylands and Hebron Trust.

39. The Order misrepresented that it had acted as soon as allegations were made against Brother McGrath in 1992. Contrary to what the Director of Hebron told the media in 1993, Hebron Trust had not "acted immediately" in relation to the 1992 Aotearoa New Zealand reports of abuse against Brother McGrath. Allegations were made in May and June 1992. Brother McGrath was not removed from his role at Hebron Trust until a brother came from Australia in August 1992 to take him back after an allegation of abuse was made there.

40. The Order's redress to survivors through its pastoral process had the potential to transform the lives of those traumatised by the abuse. The retraction of the pastoral process in 2004 caused further harm.

41. Neither the Catholic Church nor the Order have ever proactively sought out survivors who attended Hebron Trust facilities and offered help or redress. Neither has any successive bishop or Catholic Church entity.

42. Neither the Catholic Church nor the Order have ever initiated any form of investigation into why abuse at Marylands was so prolific.

Ngā take i takakinotia ai ki ngā mahi tūkino me ngā whakangongo i te wā o te noho taurima
Factors that caused or contributed to abuse and neglect in care

43. The Royal Commission finds many factors together, contributed to abuse and neglect being able to occur for decades across Marylands and Hebron Trust.

Ngā take pāpori
Societal factors

44. The societal factors that the Royal Commission finds caused or contributed to abuse and neglect in care are:

    a. At times society idealised the church and those who represented it were revered, resulting in a misplaced high trust of the Order by the State, the public and whānau. This resulted in the church, the Order and the brothers holding a degree of impunity.

    b. Social attitudes and a lack of understanding of sexual abuse of boys and disabled children prevented and delayed the disclosure of abuse.

    c. Social attitudes, evident in regulatory frameworks, were reflective of eugenics, ableism, disableism, discrimination and institutionalisation of disabled children or children with any learning support needs.

    d. Racism and discrimination, particularly towards tamariki and rangatahi Māori was continued in the Order's institutions, evident in targeted racial abuse and neglect.

Ngā take whakahaere
Institutional factors

45. The institutional factors that the Royal Commission finds caused or contributed to abuse and neglect in care are:

    a. There was a lack of monitoring and oversight by the State, the Order and the church from the date of application to establish Marylands and the development of Hebron Trust, until Brother McGrath's departure.

b. There were inadequate safeguarding policies for the tamariki and rangatahi at Marylands and Hebron Trust.

c. The State failed to act on abuse disclosures by the boys to social workers and police. Tamariki and rangatahi Māori and disabled boys in particular, were not understood or believed.

Rangapū Katorika o Hato Hoani o te Atua
Hospitaller Order of St John of God:

46. The factors that the Royal Commission finds the Order caused or contributed to abuse and neglect in care are:

a. The Order in Aotearoa New Zealand had, at times, a culture of normalised, sexualised and abusive behaviour and sometimes perceived child abuse as a sin that could be forgiven, rather than a crime.

b. The Order valued its reputation, its institutions and its brothers above all. A strong hierarchy within the Order perpetuated a culture of silence.

c. The State and the public were successfully convinced that the Order was operating a superior facility, which was the best place for boys, disabled boys and rangatahi, to give them the strongest chance of positive life outcomes.

d. The Inquiry saw no evidence brothers and teaching staff possessed the necessary skills and expertise to: care for or teach children; support disabled children or those with learning support needs; understand te ao Māori; te reo Māori or te Tiriti o Waitangi or the nature of the relationship between the Crown and Māori.

Ngā parata o Hato Hoani o te Atua
The St John of God brothers:

47. The factors that the Royal Commission finds the brothers caused or contributed to abuse and neglect in care are:

a. Some brothers within the Order exploited religious beliefs, fear of God and religious teachings to abuse and prevent disclosure of that abuse.

b. The abusive brothers were predatory and manipulative, deliberately targeting at-risk children and young people and exploiting safeguarding inadequacies for their own sexual gratification.

Ngā tamariki i tukiontia

Children exploited

48. The factors that the Royal Commission finds that caused or contributed to abuse and neglect in care of exploited children are:

    a. The environmental, emotional and cultural removal of children from whānau and communities and placement in physically remote Marylands and the orphanage meant that, in the event of abuse, disclosure opportunities were reduced.

    b. Children, especially Māori and disabled children, were undervalued, had no voice and were not understood or believed.

    c. The Order and its brothers had control over every aspect of the children's and young people's lives. Children and young people and their whānau, hapū and iwi were disempowered from being involved in decision making.

"I thought no one would love me and that I was disgusting ... [We] have had sexual problems as I get memories of the abuse when we have sex and this makes me feel terrible. We do not have children."

- Cooper Legal discussing a Marylands Survivor, Mr MC

Mr CB

"I went to school for about three days but then they sent me over to the kitchen to wash pots and pans."

Ngā wheako o ngā purapura ora - Survivor experience:

Name	Anonymised to protect identity – Mr CB[18]
Age when entered care	10 years old
Age now	71 years old
Hometown	Christchurch
Time in care	1964 to 1968
Type of care facility	Marylands School
Ethnicity	Pākehā
Whānau background	Mr CB had one sister and one brother. His father died when he was six weeks old and Mr CB lived with his mother in a State house until she died in her early nineties.
Current	Mr CB lives in a rest home in Christchurch. His brother died from same disease Mr CB has, and was supported by his sister, who has recently passed away.

I have an intellectual disability. I also have Neurofibromatosis, a condition that means I have lumps all over my tummy and body. I also have Barrett's disease. It is a disease of the oesophagus.

I was constantly wagging school. I was bored because I couldn't learn. I had some trouble with the other children, and I was picked on because of my disabilities. When I wagged, I didn't run away, I just went home from school or went to hang out at the sawmill and played in the sawdust.

I think I was around 10 years old when I went to Marylands. I think I was sent to Marylands because I couldn't read or write.

When I first arrived, they had a school. I went to school for about three days but then they sent me over to the kitchen to wash pots and pans. After those three days they never let me go back to school. I would get up and go to work and then go to bed and get up and go to work again. Every day. I don't know what my mother thought was happening with me, as I was sent there to go to school.

[18] Witness statement of Mr CB, WITN0813001 (Royal Commission of Inquiry into Abuse in Care, 11 November 2021)

I would get grumpy because I wasn't allowed to play with the boys. I could never play with the boys at lunchtime when the boys were out playing. I had to be in the kitchen doing the big pile of dishes always waiting for me. I would get the strap, but I can't remember why.

One day I was given my own room and I would get a knock on the door in the morning to get up and do the breakfast for the school and the hospital. The room was closer to the kitchen. This was so I could get up and get breakfast ready without waking anyone else up in the morning. I was the only boy helping with the kitchen.

It was not the same having my own room as I couldn't mix with the other boys. It didn't have a TV, but I didn't have time to watch TV anyway. I wasn't allowed to sit in the dining room with the other boys. I had to have my meals in the staff room.

Sometimes when I was working in the kitchen I felt like running away. I couldn't go to the police because I would have just been brought back to Marylands and would have gotten the strap for running away.

I went to the swimming pool by myself then one of the brothers came in and started playing with me and said "don't you tell anyone". He touched my penis in the swimming pool. I do not remember how old I was. It happened a couple of times. He touched my private area. I was too scared to go to the head brother because he wouldn't have believed me. I was also too scared to go to the police because they wouldn't believe me.

One of the brothers made me gas puppies in a barrel. I had to put the puppies in an old rubbish bin. The brother put the hose in and I had to sit on the lid while the puppies died. Then I had to take the bin down to the dump. It made me feel really bad. I can't explain how it made me feel in front of you.

The biggest impact is on the fact I didn't learn to read and write. This causes me enormous stress. I think I could have learned to read and write at least at a basic level if someone had helped me. It has impacted my adult life hugely. I can't use a smart phone or a laptop. I can't work computers. I have a very old-fashioned cell phone with numbers. My family can't send me photographs and can't text me. I can't text them.

I lie in bed and think about the things that went on at Marylands. I don't want to tell you the things I think about. I feel angry, annoyed and sad. I think of all the things I can't do.

There's little that can be done for me now at my age. The government needs to let children have a support person – someone they can talk to. If I had someone to talk to when I was little it would have made a big difference.

Upoko Tuatahi: Tūāpapa (1950 – 1980s)

Chapter One: Background (1950 – 1980s)

History of the Hospitaller Order of St John of God

Early 16th Century –
health-care worker, Joao Duarte Cidade, established hospital in Granada, Spain

1572 –
Order of the Brothers Hospitallers approved by Pope Pius V

1690 –
founder canonised, known as St John of God (his English name)

1898 –
St John of God declared patron saint of dying and hospitals

17th – 20th Century –
Order spreads throughout Europe and colonies of European nations. Purpose of the Order – to provide health and social services

2023 –
Order based in almost **50** countries, more than 1000 brothers, including about 100 priests

Order based in the United States, Canada, most of South America, most of Europe, India, other countries in Asia, Australia, Papua New Guinea and Aotearoa New Zealand

Hospitaller Order of St John of God

Global structure today

Order General Curia in Rome
(global headquarters)

↓

Order headed by Superior General and 6 General Councillors
They meet yearly

↓

17 provinces of Hospitaller Order of St John of God throughout world

↓

New Zealand part of the Oceania province
which includes Australia and Papua New Guinea

↓

Each province led by a **Provincial**, assisted by a provincial council
Current Oceania Provincial is Brother Timothy Graham (based in Sydney), who gave evidence to the Royal Commission in 2022

↓

Each community in a province, such as Christchurch community, is governed by a **Prior**, assisted by a local council

Upoko Tuatahi: Tūāpapa (1950 – 1980s)
Chapter One: Background (1950 – 1980s)

Whakatakinga
Introduction

1. Marylands school was established by the Catholic Hospitaller Order of the Brothers of St John of God (the Order) in Christchurch in 1955. The work of Hebron Trust commenced in 1986 by agreement between the Bishop of Christchurch and the Order. Marylands was a private special school providing education and care for disabled tamariki. Hebron Trust ministered to rangatahi in need. The Order was invited to Christchurch by the Bishop of Christchurch and was offered the Marylands property by the Bishop. It had support, accreditation and funding from the Department of Health, the Department of Education and the Department of Social Welfare.

2. Marylands, and at times, Hebron Trust, operated places of depravity, sexual, physical and spiritual violence towards the tamariki and rangatahi in the care of the brothers. Brother McGrath sexually and physically abused rangatahi while working at Hebron Trust. Hebron Trust had been intended to assist rangatahi in need.

3. In this report we briefly outline the history of the Order. We describe how and why it set up Marylands and how together with the Bishop of Christchurch set up the work that became Hebron Trust. We outline the social, religious and cultural attitudes of the day, particularly towards young people and disabled children. We explain the role of the State in the establishment and continuing operations of these institutions.

4. Through the voices of survivors, we describe the nature and extent of the abuse and neglect experienced at Marylands and Hebron Trust and the impacts on themselves, their whānau and support networks. We also describe the nature and extent of abuse by members of the Order at St Joseph's orphanage (the orphanage) located next to Marylands. This is because it appears from the evidence that the Order had access to and abused children from the orphanage.

5. We also outline the duties and responsibilities of the Crown, the wider Catholic Church and the Order under international and domestic law. These include their obligations under te Tiriti o Waitangi for the care of tamariki and rangatahi Māori.

6. We identify the systemic and operational failures to oversee and protect at-risk children and young people in their care. We also assess the responses to complaints of abuse including the police investigations and criminal trials.

7. The key factors that caused or contributed to the abuse and neglect that occurred at Marylands, Hebron Trust and the orphanage are also discussed.

8. Like all inquiries, this Royal Commission is not a court of law and does not have the power to make findings of criminal or civil liability. This report makes findings about the roles and responsibilities of the State, the Catholic Church, the Order and the brothers. These findings will support the recommendations for change in the Inquiry's Final Report.

9. Our Inquiry is underpinned by te Tiriti o Waitangi and we recognise and respect the tino rangatiratanga of mana whenua, Ngāi Tūāhuriri and more broadly Kāi Tahu, where Marylands, Hebron Trust and the orphanage are located.

Reo

Language

10. At times the language that is used in this report to describe at-risk tamariki and rangatahi is offensive and wholly inappropriate. The Inquiry uses this language to accurately reflect the records but in no way condones its use or the sentiment behind its use.

11. Many of the survivors we heard from described being raped by Brothers of the Order. We recognise that the word 'rape' is commonly used in Aotearoa New Zealand to describe non-consensual penetrative intercourse of any person by a male. Legally however[19], 'rape' is a gendered offence which requires the penetration by a penis of female genitalia.[20]

12. So, in parts of this report we have used the terms 'sodomy' or 'anal sexual violation' to describe the offence of non-consensual anal intercourse.

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[19] Crimes Act 1981, sections 128, 128B.

[20] Crimes Act 1981, section 2. "Genitalia" is defined in section 2 of the Crimes Act as including a surgically constructed or reconstructed organ analogous to naturally occurring male or female genitalia (whether the person concerned is male, female, or of indeterminate sex).

Structure of Catholic Church in Aotearoa New Zealand

Its connection to the Pope and Holy See in Rome, and local structure

Pope

Bishop of Rome, leader of the Holy See and Roman Curia

Apostolic Nunciature

- Diplomatic mission of the Holy See
- Apostolic Nuncio holds ambassador status
- Alongside civil duties, the Nuncio liaises between Holy See and the Church in Aotearoa New Zealand
- Has a role in selection of bishops

Six dioceses in Aotearoa New Zealand

- A diocese is a geographic area entrusted to the pastoral care of a bishop
- Archbishop and each of the five bishops are appointed by the Pope
- Bishops are required to provide pastoral care to all people of faith within their diocese, including members of Catholic religious institutes
- Six dioceses in Aotearoa New Zealand form the ecclesial (Church) province of New Zealand
- Archdiocese of Wellington is the 'metropolitan' diocese and the other dioceses are 'suffragan' dioceses
- Diocesan bishops form the New Zealand Catholic Bishops Conference, Te Huinga o ngā Pīhopa Katorika o Aotearoa

Archdiocese of Wellington

22 parishes*

Archbishop of Wellington and Metropolitan

Diocese of Palmerston North

22 parishes*

Bishop of Palmerston North

Diocese of Auckland

68 parishes*

Bishop of Auckland

Diocese of Christchurch

26 parishes*

Bishop of Christchurch

Diocese of Hamilton

37 parishes*

Bishop of Hamilton

Diocese of Dunedin

27 parishes*

Bishop of Dunedin

** as at the date of publication*

Religious institutes

- Catholic religious institutes (also known as religious orders or congregations, for example the Hospitaller Order of St John of God, Marist Brothers, Sisters of Nazareth) may operate in more than one diocese. Most have members based in various countries.
- Their leaders in a country or region of the world are known as superiors, leaders, or provincials depending on their structure, and are elected by their own members. This includes the worldwide head of the institute. They are not appointed by the Pope.
- Members of these institutes are known as religious. Religious include ordained clergy (deacons and priests) and non-ordained men (known as brothers) and women (known as nuns or sisters).
- Many institutes participate in the Congregational Leaders Conference of Aotearoa New Zealand.

Responsibility for responding to reports of abuse in Aotearoa New Zealand

- The Catholic Church's National Office for Professional Standards manages the receipt and response to reports of abuse.
- The National Office developed a protocol named Te Houhanga Rongo – A Path to Healing (APTH). APTH sets out the procedure for responding to reports of sexual abuse against clergy and religious staff members or members of the Church.
- Other allegations of abuse involving clergy and religious staff members or members of the Church are received and responded to by the responsible Church organisation.
- The bishop is responsible for making sure the religious institute is taking the appropriate steps in relation to any investigations and actions

Archbishop of Wellington's role.

- As of 2019, Catholic metropolitan archbishops around the world have a role and responsibility to inform the Holy See about reports of abuse or failures to respond to reports of abuse by bishops or leaders of institutes.

13. This is because between 1962 and 1986, including the timeframe when sexual abuse was occurring at Marylands School, the offence of sodomy existed in our Crimes Act. The offence required proof of anal penetration of a male or a female, by a male. Consent to anal intercourse was no defence to the charge. It was repealed by the Homosexual Law Reform Act 1986.

14. From 1986 to 2005, including the timeframe when Brother McGrath offended against victims at Hebron Trust, the offence was described in the Crimes Act as anal intercourse and consent was a defence if the person was at least 16 years old.

15. From 2005 the offence for non-consensual anal penetration is included within the charge of "sexual violation by unlawful sexual connection", contrasted to the current offence of rape, specifically "sexual violation by rape".

Horopaki
Context

16. In this part we outline the religious context and societal attitudes that enabled Marylands and Hebron Trust to be established and function as they did.

17. Our findings about these matters are at the end of chapters 1, 2 and 3.

18. The Order had no previous connection with Aotearoa New Zealand. Although at least one of the brothers, Brother McGrath, was a New Zealander, there is no evidence that they understood te Tiriti o Waitangi or the nature of the relationship between Māori and the Crown, as was common in the 1950s. When the Order came to Aotearoa New Zealand, there is no evidence it engaged with te Tiriti o Waitangi. Nor is there evidence that the Bishop of Christchurch or the wider Catholic Church ensured the Order was informed about this context,[21] despite its early and influential presence in Aotearoa New Zealand. Archbishop Paul Martin agreed, that when looking at it from a 2020-2021 point of view, neither the Bishop nor the Order were focused on any cultural or ethnic considerations when establishing Marylands.[22]

19. The Order is a religious institute. Its members are mostly non-ordained, or lay, brothers.[23] As well as the vows of poverty, chastity and obedience which are universal across all Catholic religious institutions, the Order's vowed members also profess an additional vow of hospitality[24] by which each member is to devote their life to serve the sick and socially disadvantaged.[25]

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[21] Transcript of evidence of Archbishop Paul Martin, TRN0000416, p 34, pp 500.

[22] Transcript of evidence of Archbishop Paul Martin from the Marylands School public hearing, TRN0000416, (Royal Commission of Inquiry into Abuse in Care, 16 February 2022), p 33–34, pp 499–500.

[23] Witness statement of Brother Timothy Graham, WITN0837001 (Royal Commission of Inquiry into Abuse in Care, 28 September 2021), para 12.

[24] Witness statement of Brother Timothy Graham, WITN0837001, para 13.

[25] Witness statement of Brother Timothy Graham, WITN0837001, para 13.

20. The Prior General is the global leader of the Order and is based in Rome. The Order operates a decentralised model where the management of local issues is "the responsibility of the Provincial of the particular province".[26]

21. Internationally, the Order has 22 provinces. Aotearoa New Zealand is part of the Order's Oceania province (together with Australia and Papua New Guinea).

22. Each Province is led by a 'Provincial', with assistance from his Provincial Council. The current Provincial of the Oceania Province is Brother Timothy Graham, who is based in Australia. Under the Order's constitution and statutes, the Provincial must regularly visit each part of the province.

23. In each Province, there are 'communities' such as the Christchurch community. Brothers are appointed to these communities to assist with the activities that the brothers are involved in. Each community is governed by a 'Prior', with assistance from his local Council.

24. Where complaints are made directly to the Prior, he is expected to direct these to the relevant Provincial.[27]

25. The Prior General has an oversight and monitoring role. For example, he receives each province's meeting minutes, annual reports and financial returns,[28] receives reports of brothers' criminal convictions[29] and is informed of intended supervision of brothers being released from prison.[30] The Prior General meets all leaders of provinces (Provincials) each year in Rome,[31] convenes a General Chapter every six years and a Provincial Chapter every four years.[32]

26. The Prior General exercises his leadership function through a variety of ways, such as authorising new statutes, governing the Order,[33] receiving and approving applications by brothers for solemn profession (the taking of final vows). [34]This leader can also influence local decision-making.

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[26] Transcript of evidence of Brother Timothy Graham from the Marylands School public hearing, TRN0000415 (Royal Commission of Inquiry into Abuse in Care, 15 February 2021), p 23, pp 384.

[27] Witness statement of Brother Timothy Graham, WITN0837001 para 201.

[28] Letter from Prior General Brother Pierluigi Marchesi to Brother Provincial, requesting circulars, reports, meeting minutes and the publishing of annual reports on the life of the Province, CTH0013825 (30 September 1980) p 10; Letter from Brother John Gibson to unnamed brother, enclosing annual returns to Rome, CTH0013822 (undated).

[29] Letter from Brother Joseph Smith to Brother Brian O'Donnell, update on Brother McGrath's conviction and sentencing, CTH0011833 (1 February 1994), p 8.

[30] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 98.

[31] Transcript of evidence of Brother Timothy Graham, TRN0000415, p 32 pp 392.

[32] Transcript of evidence of Brother Timothy Graham, TRN0000415, p 23–24, pp 384–385.

[33] General Statutes, Hospitaller Order of St John of God, General Curia, Rome, CTH0012271 (2019).

[34] For example: Letter to Brother McGrath from Provincial Brother John Gibson, update on solemn profession application, CTH0011823_00031 (12 June 1974) p 1

27. If sufficient cause exists, the Prior General can remove or transfer any brother from any position or office.[35]

28. The Pope is the head of the global Roman Catholic Church and sovereign of Vatican City (the Holy See). The Pope appoints bishops in all parts of the world but has no direct role in the appointment of the leader of a religious congregation and was not involved in the election of the Order's Prior General.[36]

29. However, Canon Law governs the relationship between the Pope and ordained clergy and members of religious institutions (such as the Order). The Pope has the right to initiate an Apostolic visitation and send a visitor to inspect and report back at his discretion.

30. Given these relationships, the Holy See can be expected to be informed of the serious allegations of abuse, investigations into the abuse, and criminal convictions of the brothers in the Order in the Oceania province (and elsewhere). They should be reported to him by the Prior, who in turn would have received a report from the Provincial for Oceania.

31. Catholic bishops have pastoral responsibility for all people in their diocese.[37] Pastoral responsibility for bishops means to ensure that institutions and structures are set up for the care of the spiritual needs of people.[38] Since 1917, Canon Law has to some extent provided that the bishop of a diocese has fundamental authority over and responsibility for all works of ministry and all activities involving the 'care of souls' within the diocese.[39] This includes all works carried out by diocesan priests, members of religious institutes such as the Order, and lay people whether employees or volunteers.[40]

32. Religious institutes such as the Order have a high degree of autonomy, especially in relation to their governance and discipline.[41] The leadership of a religious institute has formal responsibilities over the activities of a religious institute. The bishop and the religious institution's leader are expected to consult each other.[42]

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[35] Constitutions: Hospitaller Order of St John of God, cl 87 (1984), CTH0012269, p 29.

[36] Codex Iuris Canonici (1983 Code of Canon Law), c. 333 §1.

[37] Transcript of evidence of Archbishop Paul Martin from the Marylands School public hearing, TRN0000416 (Royal Commission of Inquiry into Abuse in Care, 16 February 2022), p 19 pp 485. See also: Witness statement of Archbishop Paul Martin, WITN0876001, (Royal Commission of Inquiry into Abuse in Care, 24 September 2021), para 7.

[38] Witness statement of Archbishop Paul Martin, WITN0876001, (Royal Commission of Inquiry into Abuse in Care, 24 September 2021), p 485.

[39] Submission of Reverend Dr. Thomas P. Doyle, EXT0015926, (Royal Commission of Inquiry into Abuse in Care, 9 March 2021), para 162; 1917: Canon 216, 33460 1. The territory of every diocese is to be divided up into distinct territorial parts; to each part specific church and determined population are assigned, with its own rector as is pastor, who is over it for the necessary care of souls.

[40] Second Submission of Reverend Dr. Thomas P. Doyle MSC0007384 (Royal Commission of Inquiry into Abuse in Care, 1 September 2021), p 7.

[41] Witness statement of Monsignor Brendan Daly, WITN0934001, para 29.

[42] Witness statement of Monsignor Brendan Daly, WITN0934001, paras 59–60.

33. If a bishop becomes aware of abuse taking place within an order, including the sexual abuse of a child, he has important obligations. These obligations, in the Catholic Church's Canon Law, have changed over time. Prior to changes implemented in 1983 a bishop was obliged to refer any concerns about matters relating to the actions of a member of a religious institute to the superior of that institute. After 1983, the obligations required more active involvement, but the responsibility still sits with the religious institute. The bishop is responsible for making sure the religious institute is taking the appropriate steps in relation to any investigations and actions.[43] If the brother is found guilty of a crime, the bishop should dismiss the brother from the order.[44]Members of the wider Catholic community expect the bishop to be responsible for what happens in his diocese, including at schools run by a religious institute, such as Marylands.[45]

34. Aotearoa New Zealand has a mix of mandatory and voluntary reporting laws. Up until 2020, the Catholic Church's national protocols did not mandate reporting allegations of abuse to police. However, from 2020, there is now a requirement to make a report to 'competent civil authorities' if a complainant is under the age of 18 at the time of making the complaint. In addition, if the complainant is over 18 years and does not choose to report to police, the church authority may make a report to police if there is a risk of harm to the complainant or any other person.

Te taurimatanga me te whakaako tamariki hauā i Aotearoa i te rautau 20
Care and education of disabled children in 20th Century Aotearoa New Zealand

35. In early 20th century Aotearoa New Zealand, disabled children were generally isolated and separated from their whānau and community.[46]

36. Until the 1960s, families of disabled children were frequently advised to place the child in an institution. This was thought to be best for both the child and the family, particularly the child's siblings. When families went against official advice, they received little or no support.[47]

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[43] Witness statement of Monsignor Brendan Daly, WITN0934001, para 105.
[44] Witness statement of Monsignor Brendan Daly, WITN0934001, para 105.
[45] Transcript of evidence of Archbishop Paul Martin, TRN0000416, p 28, pp 494.
[46] For further background information on the care of Deaf and Disabled people, see: He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānaui, p 40–44.
[47] Patrick, Dr R, Going into care in Aotearoa 1950–1999, WITN1095002 (Royal Commission of Inquiry into Abuse in Care, December 2021), p 63 at 4.4.5.

37. At this time, eugenics was an influential movement in Aotearoa New Zealand. Eugenics is a set of beliefs and practices that aimed to improve the genetic quality of the human population. It led to the exclusion, institutionalisation and isolation of people and groups perceived to be inferior[48] such as people with learning and physical disabilities, those with neurodiversity, and those in mental distress. Ableism is the active expression of eugenics, and is the consicous or unconscious discrimination in favour of the able-bodied and able-minded.

38. The treatment of disabled people and their families was strongly influenced by the medical model of disability whereby disability was considered to be an individual's problem, something wrong or broken that could be cured or contained[49] and that people in authority know better than the disabled person or their family as to what is 'right' for them. This resulted in their removal from mainstream society, discrediting their attempts to complain, and the lack of resourcing or effective monitoring of their wellbeing and safety.

39. The Government reaffirmed its policy of institutionalisation for children with learning disabilities in the 1953 report of the Consultative Committee on Disabled Children (the Aitken report). This report found that large-scale residential institutions provided the best model of care for children with learning disabilities and that children should be placed in those institutions from the age of five, despite opposition from some parents.[50]

40. The Department of Health's Mental Hygiene division outlined this position in its 1956 annual report:

> *"By and large, it can be said that the intellectually handicapped are happier amongst their own. They enjoy a community life in which the competition and striving is not too great for their intellectual capacity. This can be achieved by residence colonies much larger in size than is often contended."* [51]

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[48] Spektorowski, A; Ireni-Saban, L Politics of eugenics: productionism, population and national welfare, (Routledge, 2013) p 24.

[49] Stace, H. and Sullivan, M., A brief history of disabililty in Aotearoa New Zealand (Office for Disability Issues, 2020), www.odi.govt.nz/guidance-and-resources/a-brief-history-of-disability-in-aotearoa-new-zealand/.

[50] Patrick, R, Going into care in Aotearoa 1950–1999 (EXT9990288), p 63.

[51] Kaiwai, H, Allport, T, Māori with disabilities (part two): Report commissioned by the Waitangi Tribunal for the Health Services and Outcomes Inquiry, Wai 2575, MSC0008207 (Waitangi Tribunal, 2019), p 29.

41. As a result, the prevailing societal view was that disabled people should be out of sight of mainstream society and away from whānau and the community. Categorising disabled people, separating them from whānau and placing them in institutions remained commonplace in Aotearoa New Zealand until the 1970s. Censuses of the psychiatric hospital populations carried out in 1966, 1971, and 1976 show the proportion of resident patients aged less than 30 continued to increase, with fewer long stay patients and more short stay patients.[52] Remnants of this system remain today. This will be explored further in our Final Report.

Te whakatuanuitanga o te ariā tinana pakari, ehara te mātauranga motuhake i te whakaarotau a te Kāwanatanga
The dominance of ableism, special education not a government priority

42. Ableism was also embedded in Aotearoa New Zealand's education policy. The Education Act 1914 placed a legal obligation on the Minster of Education to place children in special schools, where parents had failed to provide their children with a suitable education. In reality the education received in those schools did not include proper special education services. Until the 1980s however, special education was not a government priority and the education provided in those schools was severely deficient. The Department of Education supported different services, but did not offer a centralised special education service.

43. Now special education services have progressively evolved and include extra help, adapted programmes or learning environments, specialised equipment or materials to support children and young people accessing the curriculum, support for learning and help participating in education.[53]

44. The focus then was on care for disabled people rather than education. The direct consequence was that disabled children were denied and deprived of their right to education. While the State did provide some special schools, it was up to families to seek out the education option they felt would best meet their children's needs.

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[52] See Department of Health, 1979, pp 2–3 EXT9990288, p 78

[53] National Council of Home Educators New Zealand, Special education needs, www.nchenz.org.nz/special-education-needs/ (last accessed 1 April 2023), at least until 2022–2023.

45. It was not until the late 1980s that the law and policy shifted and increasingly, disabled people remained at home and received an education in their local communities. The Education Act 1989 legislated for the right for all disabled children to attend their local State school on the same terms as other children.[54] However, there remained many challenges in accessing education in communities and even today many disabled children continue to find themselves assigned to segregated education outside mainstream education.

46. When Marylands was opened, its emphasis was on training rather than education, which we now understand to be reflective of ableism. Correspondence from the Department of Education in 1955 noted: "The Brothers of St John of God are an Order of the Roman Catholic Church, which has as its vocation the nursing, care and training of mentally-retarded boys and adults."[55]

Ngā Whakakitenga: Horopaki Findings: Context

47. The Royal Commission finds:

    a. Prior to the Order's expansion into Aotearoa New Zealand in the 1950s, there is no evidence that the Order took steps to understand te Tiriti o Waitangi, te ao Māori, or the nature of the relationship between Māori and the Crown.

    b. In the 1950s societal views (supported by regulatory frameworks) of ableism and eugenics supported the removal of disabled children and adults from their whānau to place them in institutions, including residential special schools.

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[54] Education Act 1989, section 8(1): "Except as provided in this Part, people who have special educational needs (whether because of disability or otherwise) have the same rights to enrol and receive education at State schools as people who do not."

[55] Letter from the Officer for Special Education to the Senior Inspector of Schools, MOE0002066, (11 November 1955).

Mr HZ

"Nobody believed us about the abuse"

Ngā wheako o ngā purapura ora - Survivor experience:

Name	Mr HZ
Age when entered care	7 years old
Age now	59 years old
Time in care	1970 to 1980
Type of care facility	Foster care, the Kimberley Centre Education: Catholic school – Marylands School Psychiatric hospital – Lake Alice
Ethnicity	Māori
Whānau background	Three brothers, one sister, raised by their grandmother initially.

I'm Mr HZ. When I was seven, I was taken off my parents and put into foster care. And that was the start of my life within the system and the start of my suffering. My parents didn't have the skills to look after us properly, and they thought that by giving us to Social Welfare they were giving us a better chance in life.

My health records show I was labelled as 'mentally retarded'. When I was nine years old, I was admitted to Lake Alice psychiatric hospital where I received electric shocks and was sexually abused. I was sent to Marylands School just before my 10th birthday and I spent four years there.

At Marylands, Brother McGrath sexually and physically abused me and other boys. One time, he got a few of us boys into his room. We were in a group on the floor, naked and kneeling. Brother McGrath would go around us all and try to put his penis in our mouths. Some of the other boys seemed to know what to do, but I didn't. When he tried to shove his penis in my mouth, I bit him.

Brother McGrath had a baseball bat he'd hit us with, it was red plastic and hollow inside. One time we were in the TV room and he came in with lollies, biscuits and his baseball bat. He gave us lollies and turned the TV and lights off. He rubbed his penis along one boy's face, holding onto the back of his head. Then he walked over to me and rubbed his penis in my face. I was trying to pull away, but he told me to stay there. He grabbed me by the head and tried to force his penis into my mouth. When I pulled away, he hit me with the baseball bat, so hard it made my nose bleed. I was terrified.

Brother Moloney also sexually abused me. Brother McGrath and Brother Moloney were very close and I often saw Brother Moloney coming out of Brother McGrath's bedroom. One night, Brother McGrath came and got me out of bed and took me to his bedroom. Brother Moloney was in the bed naked and they played with each other sexually. They tried to make me perform oral sex and to sodomise me, but I wouldn't keep still and that made them mad. Brother McGrath always had his baseball bat nearby and he whacked me with it.

After a while, I just started to adapt to the sexual things that happened at Marylands. Brother McGrath also threatened me to keep quiet. Once, he took me to the hospital morgue and showed me a corpse as a way of silencing me. I also saw him force a boy to eat his own shit in front of other boys because he messed his bed.

I told a teacher about the abuse but she didn't believe me. She said brothers don't do things like that and I must stop lying. I also told another woman and she didn't believe us, so when we saw Brother McGrath take one of the boys, we went and got her to show her. She didn't say or do anything though. I told three social workers but they didn't believe me, either. At one point I ran away with another boy because of the abuse, and when the police caught us we told them, but nothing happened.

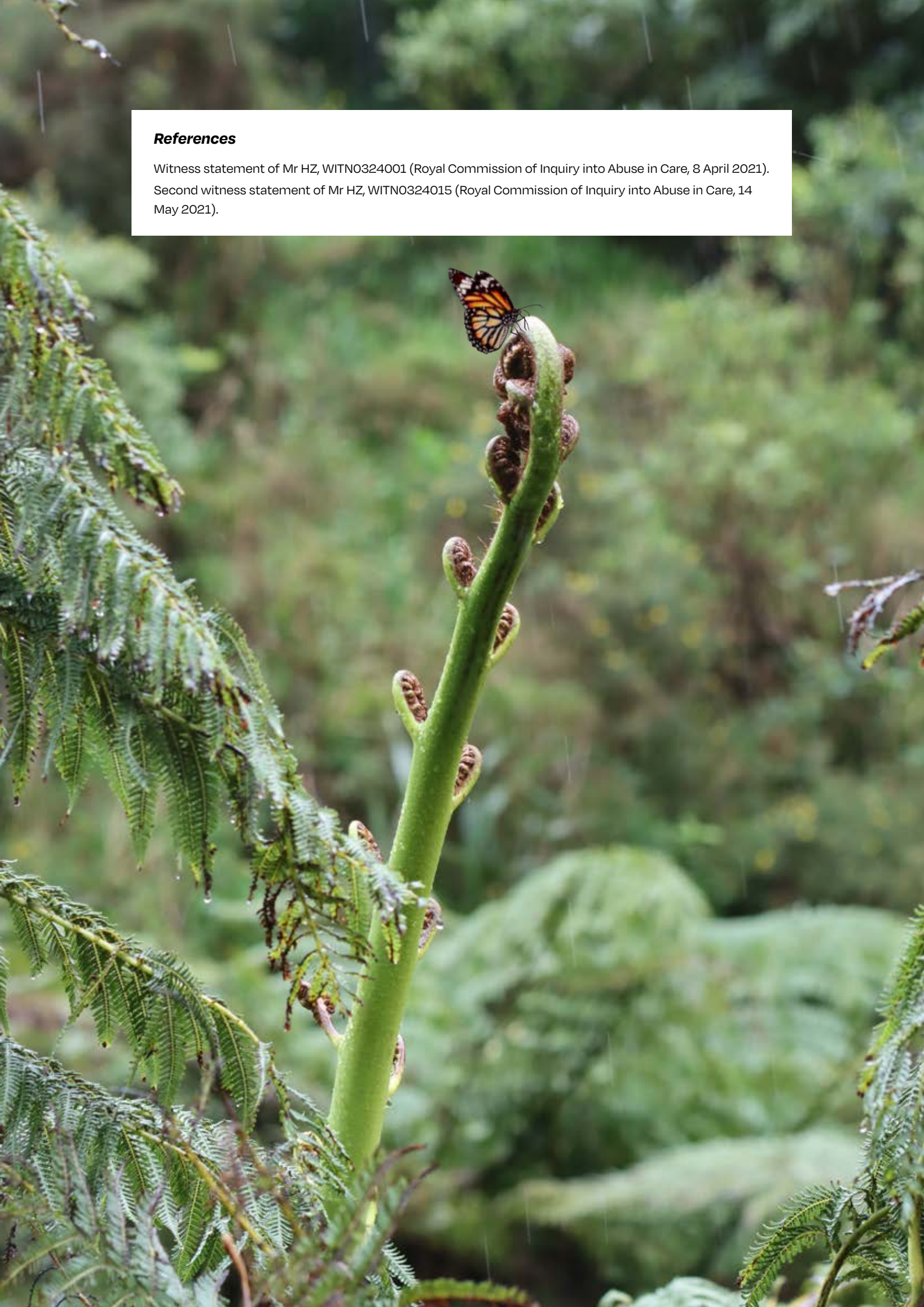
My teenage years were horrible and I ended up in prison. I was a patched gang member by 25 years old – it gave me a sense of belonging and heaps of power with the support of the gang behind me. I didn't stay long though, because some beat up their kids and I didn't like that.

I don't trust people in authority. I've never had proper schooling or any real education – I only learned to read and write after I went to jail. I've never been given the chance to develop proper parenting skills, and my own kids have been taken away from me. I've never been taught about normal physical and emotional relationships with people I love.

I was totally separated from my Māori culture. This was the source of all my sense of identity and belonging. This land is our land, and I know I belong to it; I know I am supposed to live a healthy life on my land but this is being stopped by the institutions that are not designed to understand and care for Māori children. I have suffered, and my kids have suffered because of this racist system.

It is sad to say that the only sense of belonging and support I ever felt was being part of a gang.

All the places I've been – Marylands, Lake Alice, the Kimberly Centre, foster homes – simply haven't been run correctly. Comfort has been taken out of these places. If the places I've been had been comfortable and had supported me, growing up as a child in the system, things would have been different. All I want now is that comfort.



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"[t]he Minister mentioned that in order to make me happy about this arrangement I could call the place what I like and need never mention the word School as it was not expected that it would be conducted as a school but rather as a Training Centre for retarded boys."

- Brother Kilian, St John of God

Upoko Tuarua: Te Kura o Marylands

Chapter Two: Marylands School

Upoko Tuarua: Te Kura o Marylands
Chapter Two: Marylands School

Whakatakinga
Introduction

1. To properly understand the pathways and circumstances that led to hundreds of boys entering into the care of the brothers of the Order, we must first look at the establishment of Marylands School, its functions, how it was funded and the role of the State.

2. Our findings about these matters are at the end of this chapter.

Te Whakatū i te Ratonga Karauna i te rohenga o 'Oceania Province' i te tau 1947
Establishment of the Order's Oceania Province in 1947

3. The Oceania province of the Order was established in Australia in 1947 by two brothers from Ireland who arrived and set up a ministry. The following year, six more brothers arrived.

4. In 1950, the Order opened a school, Kendall Grange, for boys with learning difficulties in Morisset, New South Wales. In 1953, the brothers established another school at Cheltenham, Victoria, again for boys with learning disabilities.[56]

5. The Australian Royal Commission into Institutional Responses to Child Sexual Abuse found that a weighted average of 40 per cent of members of the Brothers of St John of God within Australian institutions had allegations of child sexual abuse made against them from 1950 until 2010. [57]

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[56] Witness statement of Brother Timothy Graham, WITN0837001, para 35.

[57] Australian Royal Commission into Institutional Responses to Child Sexual Abuse, Analysis of claims of child sexual abuse made with respect to Catholic Church institutions in Australia, Sydney, June 2017, p 16 (Using a weighted average approach).

Ka tae mai te Rangapū ki Aotearoa i te tau 1954, i runga i te pōhiri a ngā Pīhopa Katorika -te whakatūnga o te Kura o Marylands
Order comes to Aotearoa New Zealand in 1954 at invitation of Catholic bishops – establishment of Marylands School

6. The Order expanded from Australia to Aotearoa New Zealand in 1954 at the invitation of the New Zealand Catholic Bishops. The Archbishop of Auckland, James Liston, with support from the Bishop of Christchurch, suggested the Order take over a facility called Marylands in Middleton, Christchurch. At that time, Marylands was a home for 'delinquent' boys who were considered difficult or troublesome and was run by another Catholic Order, the Picpus Fathers.

7. In January 1955, the Bishop of Christchurch, Bishop Joyce advised the Picpus Fathers that Marylands would be closing, the reasons provided by the Bishop were that the "[i]ncreasing costs and a small number of boys have made this action necessary".[58]

8. There are no records on what happened to the boys who had been residing at Marylands when the Picpus Fathers closed the home. The Order was notified in 2003 that an ex-Marylands student alleged that while he attended Marylands in the early 1950s (then run by the Picpus Fathers) he was sexually abused, and that he and two family members met with the Bishop of Christchurch about this (in around 1954).[59]

9. A letter from Bishop Joyce, to Archbishop Liston noted that the Order was interested in setting up a ministry in Aotearoa New Zealand.[60] The Order wanted to continue to work with disabled children, as it had been doing in both Australia and Ireland, and not with 'delinquent' or 'difficult' children. The Order's intention was to open as a 'foundation for retarded children'. At the time, the Order had run similar schools in Ireland and Australia, including the Order's residential facility in Morisset, New South Wales.

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[58] Te Rōpū Tautoko Marylands Briefing Paper 7: Picpus Fathers and Marylands, as amended 24 September 2021, CTH0015324, p 4.

[59] Letter from J D Hall, Barrister and Solicitor to Lee Robinson of Saunders Robinson, regarding alleged abuse by client who attended Marylands School in 1950, CTH0014934_00018 (16 July 2003) p 1–2.

[60] Letter from the Bishop of Christchurch to the Archbishop, regarding the establishment and nature of care proposed by the St John of God Brothers, CTH0015246 (1954), p 6.

St John of God operation of Marylands School 1954–1984

1954
Catholic Bishop of Christchurch, Edward Joyce, offers Order Marylands site in Middleton

1955
Order arrives in New Zealand. Agreed by the Order that Marylands would open as a "Special School" under the Department of Health

August 1955
Marylands opens. First children start in November

1967
Marylands becomes registered as both "Private Special School for Backward Boys" and "Private Special School for Intellectually Handicapped Boys"

December 1968
Marylands relocates to Halswell, next to St Joseph's Orphanage. It changes to Private Special Residential School for Intellectually Handicapped Boys (under Department of Education). Entry criteria changes

2 September 1983
Order advises the Department of Education it is terminating its agreement to manage Marylands

23 January 1984
Department of Education takes over Marylands from the Order

10. The Order believed "delinquency [was] not its work, being nurses and psychiatrists, and not educators". It was, however, "anxious to start a Foundation for retarded children, which … prevents later delinquency. [The Order's] idea would be to take boys at 7 years of age, who would otherwise go to Mental Asylums, and by care and nursing, fit them for society".[61]

11. In the months leading up to the opening of Marylands, Bishop Joyce endorsed the Order's work and the Order spoke publicly about its expertise in similar work with children overseas.[62]

12. Under Canon Law, the Bishop of Christchurch had to give consent to the Order setting up a school for disabled boys in Christchurch, before the brothers could establish a facility there. The Order accepted Bishop Joyce's official offer of the existing Marylands site in Christchurch in November 1954.

I whakawhirinaki atu te kura o Marylands ki te tahua pūtea a te Kāwanatanga hei kawe i ngā whakahaere
Order relied on State funding to operate Marylands School

13. The Order's predominant focus when considering branching into Aotearoa New Zealand and opening Marylands School, was State funding.

14. When discussions between the Department of Health and the Order commenced, the focus of the discussions was on how much money both the Department of Health and the Department of Education was prepared to contribute, including for purchasing the Marylands property and the ongoing operational costs. We have been unable to find any evidence to suggest the State investigated whether the Order should be allowed to come to Aotearoa New Zealand to run this sort of institution or whether the brothers had suitable training and expertise to run Marylands School.

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[61] Letter from the Bishop of Christchurch to Archbishop Liston, discussing the nature of care to be provided by the Order, CTH0015143_00005 (14 October 1954), p 6.

[62] Newspaper article, 'Retardate Boys, Care By Brothers of St John of God, Provincials Address', MOH0000945 (The Press, 9 June 1955), p 317.

15. The Order initially planned to run Marylands with funding and support from the Department of Health, as it had done in Australia. This was consistent with the brothers' perception of themselves as 'nurses and psychiatrists, and not educators'.[63] However, Department of Health funding was available for only short-stay homes.[64] The Order had expected enthusiasm and government funding from the department's Mental Hygiene Division and was disappointed when funding was unavailable.[65]

16. The Provincial requested that the Bishop of Christchurch write to the Prime Minister expressing his disappointment in the Department of Health. While the Bishop of Christchurch agreed, he instead wrote to the Minister of Health noting the Prime Minister's support to the project. The Bishop requested a meeting between the Minister of Health and the Provincial to discuss this matter, on behalf of the Provincial.[66]

17. Brother Kilian reported to the Bishop that the Order was resistant to the involvement of the Department of Education:

"As you are aware the result of the recent visit to Wellington, in connection with the opening of Marylands, is most disappointing ...

My opinion is that the Government are not anxious to alter the stupid legislation they have made in respect of short-stay homes. It would be against our principles to accept boys for two months only, as this is not the way to attack the big problem of mental deficiency, and they in Wellington are aware of this as well as I am. I feel we should not rush in to any acceptance of the paltry bait they are offering us ...

Education means for us (Catholics) no progress in the mental deficiency field simply because most of the children will come from broken homes etc., and there will be little support from the families. Also Education offers us, perhaps a paltry grant towards capital costs and no per capita maintenance, which we are looking for. Also binding us down to the type of boy which in most cases are in my opinion ineducable."[67]

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[63] Letter from the Bishop of Christchurch to Archbishop Liston, discussing the nature of care to be provided by the Order, CTH0015143_00005 (14 October 1954), p 6.

[64] Mental Health Amendment Act 1954, section 3(2).

[65] Letter from Provincial Brother Kilian to the Bishop of Christchurch Edward Joyce, regarding discussions around initial State funding, CTH0015145 (19 February 1955), p 5.

[66] Letter from Brother Kilian to Bishop Joyce, regarding State involvement in the opening of Marylands School, CTH0015141 (12 September 1955), p 1.

[67] Letter from Brother Kilian to Bishop Joyce, update on legislation to include long-stay care home, CTH0015141 (1 October 1955), p 5.

18. Bishop Joyce wrote to the Minister of Health to request that the legislation be changed:

"May I respectfully point out that the Brothers' work, which has a history of some 400 years, has always in every country throughout the world worked in conjunction with the Health authorities.

Would it be too much to suggest that the Act pertaining to short-stay homes be amended to include long-stay homes ..."[68]

19. The Minister of Health at the time suggested the Order operate under the Department of Education instead, and open as a type of special school.[69] However, it was not long before it was agreed that Marylands would open as a "special school for retarded boys" under the Department of Health with, from the Order's point of view, the Department of Education "having a slight interest in it".[70] Private schools registered under the Education Act 1914 were to be inspected annually, however we have correspondence from the Order which suggests that Marylands and the Minister of Education agreed to an inspection once every two years and later, once every three years in accordance with the amendments to the education legislation in 1964.[71] The Department of Education was only able to locate records of two inspection reports for Marylands carried out by the Department of Education over the 29 years that Marylands was open.

Ngā paearu whakauru mō ngā ākonga ka kuraina ki te kura o Marylands
The enrolment criteria for students attending Marylands School

20. As Marylands was outside the State school system, students were not subject to the same admissions procedure for enrolment as the children who enrolled in State special schools for disabled children. Under the 1914 and 1964 legislation, the Director General could direct a child to be enrolled at a State special school or other State school if the parent was not able to carry out their primary duty to provide for their child's education.[72]

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[68] Letter from the Bishop of Christchurch to the Minister of Health, requesting amendments to legislation to include long-stay care homes and a personal interview between the Minister of Health and the Provincial of the Order, CTH0015141 (24 October 1955), p 12–13.

[69] Letter from Brother Kilian to the Bishop of Christchurch, regarding Marylands opening under the Department of Health and discussions on capital expenditure, CTH0015141 (2 November 1955), p 14–15.

[70] Letter from Brother Kilian to the Bishop of Christchurch, CTH0015141, p 14–15.

[71] Letter from Brother Kilian to the Bishop of Christchurch, CTH0015141, p 14–15.

[72] See also: Brief of evidence of Helen Hurst for the Ministry of Education, WITN0099003 (Royal Commission, 7 October 2021), para 4.6.

21. Brother Kilian noted that "the powers that be in Wellington are arranging that the place be inspected and Licensed to be Special School".[73] The Department of Education circular from 1955 compared pupils eligible for Marylands to pupils placed in special schools:

> *"The boys to be admitted fall into the same category as children admitted to special classes and schools for backward children. The range of mental ability at Marylands will be the same as for special classes and schools except that special classes and schools take some children who are a little more able mentally than the most able who will be admitted to Marylands."*[74]

22. A memorandum from the Minister of Health noted that children who were clearly incapable of being 'trained' to a level that might enable them to earn their own living would not be admitted.[75] This meant Marylands did not need to be licensed under the Mental Health Act (as originally anticipated), but rather registered under the Education Act 1914 as a Special School.[76] The Mental Hygiene Division was, however, interested in the work to be done at Marylands and would keep in touch with the brothers.[77]

23. Brother Kilian reported that:

> *"[t]he Minister mentioned that in order to make me happy about this arrangement I could call the place what I like and need never mention the word School as it was not expected that it would be conducted as a school but rather as a Training Centre for retarded boys."*[78]

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[73] Letter from Brother Kilian to the Bishop of Christchurch, CTH0015141, p 15.

[74] Circular sent by Mr AB Allen, Senior Psychologist of the Department of Education, outline of the admission testing criteria, interpretation of I.Q ranges, and I.Q. range for admission to Marylands, CTH0015141 (6 December 1955), p 3.

[75] Memorandum from the Minister of Health to Cabinet, Brothers of St John of God "Marylands" Home for Mentally Retarded Boys, Halls Road, Middleton, Christchurch, MOE0002070 (18 November 1955), p 2.

[76] Memorandum from the Minister of Health to Cabinet, MOE0002070, p 2.

[77] Memorandum from the Minister of Health to Cabinet, MOE0002070, p 2.

[78] Letter from Brother Kilian to the Bishop of Christchurch, CTH0015141, pp 14.

24. The Order would consider the child's suitability and then request the child to see a referring psychologist. This would be followed by a psychologist's report, including "a Binet IQ range, comments on the boys' behaviours during psychological examination, together with comments from teachers or any details of previous education which the child may have had".[79] Marylands accepted private referrals and State placements of boys from all parts of Aotearoa New Zealand, regardless of religious denomination.

25. It was expected that boys admitted to Marylands would have an IQ that fell within 50 to 70.[80] There were special circumstances that allowed for marginal cases of admission where a young person's IQ fell between 40 and 50, such as a child with Down syndrome.[81]

Marautanga- Ko tā te Rangapū aronga ko te whakangungu, kaua ko te whāngai mātauranga
Curriculum – Order focused on training rather than education

26. Private schools had considerable flexibility to develop their curriculum and were not required to teach the State curriculum until private and religious schools were integrated into the State system following the passing of the Private Schools Conditional Integration Act 1975. However, a series of regulations were introduced from 1945 which required that every student, including in every private school, be given instruction in a list of subjects in accordance with a syllabus prescribed by the Minister. Despite this, the Inquiry has no evidence to suggest that these regulations were applied at Marylands, given the serious educational neglect of the students at Marylands. In addition to this, there was no specific curriculum for 'backward' children and special education teachers got very little help in adapting the curriculum for their pupils.[82]

27. The Order focused on training for low skilled occupations for the learning-disabled boys who lived at Marylands, rather than providing an education.

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[79] Letter from the Office for Special Education to Mr A Allen, Marylands – Christchurch, MOE0002076 (1 February 1956) p 1. See also: Department of Education circular, regarding the I.Q. range for admission to Marylands, CTH0015142 (6 December 1955), p 3.

[80] Letter from Brother Kilian to the Bishop of Christchurch, CTH0015141, p 14–15.

[81] Letter from the Officer for Special Education to Mr A Allen, Marylands – Christchurch, MOE0002076 (1 February 1956). See also: Department of Education circular, regarding the I.Q. range for admission to Marylands, CTH0015142 (6 December 1955), p 3.

[82] Glass, M, "Description and evaluation of special education for backward pupils at primary and intermediate schools in New Zealand" (1977), Massey University https://mro.massey.ac.nz/handle/10179/7839.

28. The basis of the registration of Marylands as a special school, and the whole basis for government approval for subsidy, was the Order's agreement that they were not taking those who were 'intellectually handicapped', but rather those who had 'mild subnormality'.[83] It was thought that children of this level had some prospect, even if it was a relatively small one, of eventually being able to earn their own living, and that was the object of the 'training'.[84]

Te rēhita hei kura motuhake tūmataiti
Registration as a private special school

29. Prior to the Order opening Marylands, the Bishop of Christchurch vouched for the brothers as being suitably qualified to care and train the pupils - "The Brothers are specially trained for their work. The Brothers, who will conduct "Marylands" have their general and medical nursing diplomas, together with the Royal Medico – Physical Association's Diploma in England for the care and training of intellectually handicapped children. Many of the Brothers become Doctors and Chemists."[85]

30. Marylands officially opened on 21 August 1955 to great fanfare,[86] but the first children did not start at the school until 14 November 1955 because funding issues remained unsettled.

31. Marylands was granted provisional registration as a private special school for 'backwards boys' on 11 November 1955. Full registration was confirmed on 7 December 1956, following an inspection of the school by the Department of Education.[87]

32. The Christchurch Senior Inspector of Schools reported favourably on the facilities and on the qualifications of the teachers. The inspector noted that the teachers were thoroughly practical and well-suited to "the teaching of the boys who will attend",[88] despite being aware that the brothers were mostly health professionals, not educators.[89] The Inquiry saw no evidence to show on what basis the Christchurch Senior Inspector made this assessment.

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[83] Letter from the Officer for Special Education to Mr A Allen, MOE0002076.
[84] Letter from the Officer for Special Education to Mr A Allen, MOE0002076.
[85] Bundle of documents relating to the Order of St John of God, including memorandum to the Minister of Health, MOH0000945, p 315.
[86] Witness statement of Brother Timothy Graham, WITN0837001, para 71.
[87] Brief of evidence from Helen Hurst (Associate Deputy Secretary, Ministry of Education), EXT0020167, para 4.4.
[88] Letter from the Senior Inspector of Schools to the Department of Education, MOE0002064 (4 November 1955).
[89] Bundle of documents relating to the Order of St John of God, including memorandum to the Minister of Health, MOH0000945, p 315.

33. The Order did not initially provide any specific training for residential care. The Order does not hold any formal policies or other documentation, on the training and education requirements of the brothers or any lay teachers or assistants at Marylands.[90]

Ka whāia e te Rangapū ngā moni āwhina i te tahua tautoko a te Kāwanatanga
Order seeks capital subsidy contributions from the State

34. The Order suggested to the Department of Health that parents should be charged £3 per week and if the parents could not pay, or could pay only a portion, the State should make up the difference.[91] The Order also sought a capital subsidy contribution from the State for the purchase price of the property from the Bishop of Christchurch and work required to prepare it to function as a school.

35. During this period of uncertainty, before students could be accepted into Marylands and funding negotiations were underway, members of the community sought updates from the Bishop of Christchurch regarding the delays in the opening of Marylands. In October 1955, the Bishop of Christchurch wrote to the Minister of Health, stating:

"I regret to state that during the past month, I have been attacked from all sides and from all sections of the community with the one question, when is Marylands going to open? Has anything gone wrong? I feel a cure, Honourable Sir, that between your good self and Brother Kilian some agreement can be reached which will allow the Brothers to commence their work immediately, and so keep faith with the public."[92]

36. Following the meeting between the Provincial and the Minister of Health, Cabinet considered whether to provide funding to Marylands. On 22 November 1955, Cabinet agreed to Brother Kilian's request for additional funds. Cabinet agreed to pay the Bishop of Christchurch "5 shillings per day, per bed".[93] This was done through a letter from the Prime Minister to the Bishop of Christchurch, who accepted on behalf of the Provincial (in Australia).[94]

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[90] Witness statement of Brother Timothy Graham, WITN0837001, paras 58–59.
[91] Letter from Brother Kilian to the Bishop of Christchurch, CTH0015141, p 14–15.
[92] Letter from the Bishop of Christchurch to the Minister of Health, CTH0015141, p 12–13.
[93] Letter from Prime Minister Holland to Bishop Joyce, regarding cabinet approved maintenance subsidy for Marylands students, CTH0015141 (22 November 1955), p 17.
[94] Letter from Bishop Joyce to Prime Minister Holland, accepting Cabinet's subsidy payment, CTH0015141 (2 December 1955), p 18.

"...Marylands was a school for children with learning difficulties. The boys who made up the initial roll and I had no disabilities though. We were only there to look after the other kids and to work for the brothers."

- Mr AL

37. A decision about a capital subsidy was deferred.[95] The following year, the State approved a special grant to the Order to assist it in establishing Marylands.[96] In December 1957, the Order was transferred the property from the Bishop of Christchurch.[97]

38. Ngā momo ara i tae atu ngā tama ki te kura o Marylands Different pathways of how boys arrived at Marylands School

39. Despite the perception that Marylands School was to be a school for disabled boys, the reality was quite different. Of the first intake of 10 students to arrive at Marylands, six were transferred from the orphanage.[98] It appears that at least some of these students did not have disabilities.

40. The neighbouring property at Halswell was the orphanage, which was run by the Sisters of Nazareth. The two properties were separated only by a small river, the Heathcote River,[99] and a footbridge.

41. Mr AL was one of the six boys transferred from the orphanage to Marylands.[100] He told us that the initial intake was put to work to set up the school, rather than being in a classroom getting an education. They were involved in the day-to-day running of Marylands, from making the younger children's beds, setting the table for disabled children and working in the garden and farmland surrounding Marylands.[101]

42. There is some evidence the brothers went to the orphanage for activities.[102] We heard evidence to suggest that the children at Marylands and the orphanage would often come together for sports days.[103] Some survivors recall being taken from the orphanage to Marylands to use the swimming pool,[104] for choir

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[95] Letter from Prime Minister Holland to Bishop Joyce, CTH0015141, p 17. On 22 November, the Prime Minister noted Cabinet had given preliminary consideration to providing a capital subsidy for the establishment of Marylands but the decision was deferred until further information could be obtained.

[96] Letter to the Director of Education from the Deputy Director-General of the Department of Health, regarding the approval of state funding to assist the Order of St John of God to purchase property, MOE0002079 (26 September 1956).

[97] Witness statement of Brother Timothy Graham, WITN0837001, para 74(c).

[98] Marylands Students Admissions Register, CTH0010185 (1955-1983), pp 1–2.

[99] Witness statement of Brother Timothy Graham, WITN0837001, para 84.

[100] Witness statement of Mr AL, WITN0623001, (Royal Commission of Inquiry into Abuse in Care, 7 May 2021), para 3.15.

[101] Witness statement of Mr AL, WITN0623001, paras 4.1–4.2.

[102] NOPS investigation report: allegation of physical and sexual abuse – Peter John Wall, (12 November 2018), CTH0012752, p 9.

[103] NOPS investigation report: allegation of physical and sexual abuse – Peter John Wall, (12 November 2018), CTH0012752, p. 9.

[104] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 253.

practice,[105] and, according to some survivors, for punishment and discipline by the brothers.[106] One Marylands survivor, Darryl Smith, recalls going over to the orphanage frequently and he also remembers the nuns relieving for the brothers at Marylands.[107]

43. A large portion of those referred to Marylands were also State placements. The Department of Education placed boys recorded as having learning difficulties, those who struggled with reading and writing or could not keep up with the curriculum in State schools. Boys that were exhibiting difficult behaviour at home, trouble with police or a lack of anywhere else to go were also placed at Marylands. Many were not disabled.

> *"I do not know why I was referred to Marylands. When I first arrived there in 1966, I was nine years old. It was a boys' residential school for kids with special needs. I was a normal boy with no special needs other than the need for a caring home."*[108]

44. Private placements were also arranged, and these were often influenced by the religious affiliation or religious adaption of a child's family.

45. The Order has no records or information identifying children who attended Marylands School as Pacific or Māori, or those with disabilities.

Ngā whakaurutanga a te Kāwanatanga ki te kura o Marylands
State placements to Marylands School

46. The Department of Social Welfare or Psychological Services (a service of the Department of Education) placed and provided funding for many children and young people at Marylands.

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[105] A Private Session transcript, CRM0014147 (Royal Commission of Inquiry into Abuse in Care, 5 August 2021), p 7.

[106] Witness statement of Mr IY, WITN1023001 (Royal Commission of Inquiry into Abuse in Care, 16 December 2021), para 4.11.

[107] Witness statement of Darryl Smith, WITN0840001 (Royal Commission of Inquiry into Abuse in Care, 13 September 2021), paras 52–53, 58.

[108] Witness statement of Mr AB, WITN0420001 (Royal Commission of Inquiry into Abuse in Care, 19 April 2021), para 35.

47. State wards were children who had been removed from the care of their whānau for various reasons and placed in the care of the State.[109] The Department of Social Welfare fully subsidised the fees of State wards who were at Marylands.[110] From 1966, most referrals to Marylands were from Psychological Services.[111]

48. Prior Brother Boxall said in an October 1978 letter to the Department of Education:

> *"Marylands caters for boys who are specially recommended by the Psychological Services for residential care and education. A great percentage of these boys come because their needs cannot be adequately met in the usual day school situations owing to their gross social and/or emotional disturbances superimposed on their mild mental retardation. These pupils need a special environment, be it physical, psychological or social, necessary to fulfil their potential."*[112]

49. Of the 537 children and young people the Inquiry identified as having attended Marylands from 1955 to 1984, 152 had a Department of Social Welfare case file but not all of those had a status with the Department of Social Welfare during the period they were enrolled at Marylands.[113] During periods in the 1970s, about a quarter of the school's roll were recorded as State wards.[114]

50. Survivors describe being sent to Marylands School because they came to the attention of social services due to their parents' behaviours. Many describe trauma and abuse including sexual abuse and neglect in the family home. Some came from large families with single mothers who struggled to support their children.

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[109] Kerryn Pollock, 'Children's homes and fostering – Government institutions', Te Ara – the Encyclopedia of New Zealand, http://www.TeAra.govt.nz/en/childrens-homes-and-fostering/page-2 (accessed 1 April 2023).

[110] Letter from the Director of Mental Health to the Director-General of Education, regarding government subsidy payments for Marylands students, MOE0002131 (25 July 1972), p 1.

[111] Witness statement of Brother Timothy Graham, WITN0837001, para 105.

[112] Letter from Brother Boxall to the Department of Education, staff complement at Marylands, MOE0002341 (4 October 1978), p 1.

[113] Crown submissions regarding Marylands School response to notice to produce 310, CRL0250951 (Royal Commission of Inquiry into Abuse in Care, 12 November 2021), p 3.

[114] Te Rōpū Tautoko Marylands Briefing paper 3: Marylands residential special school: contextual analysis, MSC0007270 (30 July 2021), para 22.

51. Mr HZ from Ngāti Maniapoto and Ngāti Tūwharetoa, was a survivor from Marylands, Kimberley and Lake Alice child and adolescent unit. Mr HZ was placed in the care of the Department of Social Welfare at age three and said that he had "a long history of being taken into care by the State, released to my parents and then returned to care".[115] On one occasion while in State care, Mr HZ saw his placement at Marylands as his only option:

> *"Upon my discharge from Palmerston North hospital for my ear operations, I was given two choices by the Department of Social Welfare. It was to go to Marylands or to go back to Lake Alice. Lake Alice had been so traumatising for me that I would do anything not to go back there."*[116]

52. The Department of Social Welfare had its own internal admission process. The guidelines for placement of State wards into a private boarding school would be approved if it were deemed to be "the most satisfactory placement for the ward".[117] The Social Workers' Manual required the child welfare officer to set out the reasons it would be in the child or young person's best interests to be admitted to Marylands.[118]

53. Denis Smith, a former social worker with the Department of Social Welfare told the Inquiry that:

> *"There were wide variations in practice between individual social workers, offices, and institutions. There was no consistent national practice. The Manual was a guide. It was sometimes ignored or not followed if a social worker was not familiar with its contents. Different social workers could interpret the Manual differently. Often, social workers were unable to follow the Manual to the letter because of their workloads or other organisational constraints. Offices were often short-staffed, and at that time many of the staff had no professional social work qualifications."*[119]

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[115] Witness statement of Mr HZ, WITN0324015, (Royal Commission of Inquiry into Abuse in Care, 14 May 2021), para 9.

[116] Witness statement of Mr HZ, WITN0324015, para 26.

[117] Child Welfare Division of the Department of Education, Social Workers' Manual, ORT0000035 (1970–1984), p 250.

[118] Crown submissions regarding Marylands School response to notice to produce 310, CRL0250951, para 2.3.

[119] Witness statement of Denis Smith, WITN0184001 (Royal Commission of Inquiry into Abuse in Care, 15 December 2021), para 45.

Institutions were considered when the behaviour was considered beyond the ability of foster parents to handle, or when placement was for an older teenager. The resource issues, not the needs of the child, often dictated placement, and I believe this is still true today. I also believe that if I am right about this, then the 'best interests of the child' are simply not being served."[120]

The whole placement environment involved searching around to see where there was a bed in a facility that took that age of child. Church-based institutions were another option – at times the only option."[121]

54. Survivor Steven Long told us:

"I was admitted on my sixth birthday, and I was the youngest boy there. Child Welfare knew I was considerably younger than was usual for boys to be admitted to Marylands."[122]

55. Peter Galvin, a general manager from Oranga Tamariki confirmed that the placement process was not a statutory requirement to consider and could give insight into how often the placement assessments on best interests were followed:

"It should be noted that these requirements were set out in practice guidance and social work manuals, rather than arising directly from statute or regulation."[123]

Ngā whakaurutanga tūmatawhāiti ki te kura o Marylands
Private placements to Marylands School

56. Other referrals to Marylands were made privately and directly by families, by a general practitioner or psychologist, or with the encouragement of religious leaders and organisations such as Catholic Social Services and Presbyterian Social Services.[124]

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[120] Witness statement of Denis Smith, WITN0184001, para 81.
[121] Witness statement of Denis Smith, WITN0184001, para 82.
[122] Witness statement of Steven Long, WITN0744001 (Royal Commission of Inquiry into Abuse in Care, 15 October 2021), para 23.
[123] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001 (Royal Commission of Inquiry into Abuse in Care, 4 February 2021), para 18.
[124] Marylands Students Admissions Register, CTH0010185, pp 1-2.

57. In some cases, a motivating factor for placement at Marylands was their affiliation with the Catholic Church. Families believed their sons would receive an education best suited to their needs.[125] One survivor's mother shared:

"Our family is Catholic so we thought it would be better than an IHC [Society for Intellectually Handicapped Children] school. Also, we thought that the brothers were doing it for the love of God."[126]

58. One survivor, who came from an abusive home, was withdrawn at school and was regularly bullied. He attended a psychiatric assessment arranged by a nun working at his school. The psychiatrist suggested he "attend an all-boys' school, to bring him out of his shell".[127] He recalls his mother questioning the appropriateness of the placement at Marylands by the psychiatrist because he did not have any learning issues, but his father agreed because it was a Catholic school.

"My mother thought it was a bit strange because the boys at Marylands were all slow learners. She wasn't happy about me going but, since it was only going to be for about two years, she agreed as well."[128]

59. One survivor noted that their family experienced encouragement or pressure from the church to keep their children at Marylands, even when they had concerns. One family member of a survivor felt humiliated by the Bishop of Auckland, Archbishop Liston, and a parish priest in Auckland after trying to raise concerns about her son's continued placement. Her daughter said:

"She spoke to Archbishop Liston and our parish priest after one of her visits to Marylands. She raised concerns she had for Marylands. They stated, 'You don't know how lucky you are, [Mrs DN], to have these brothers caring for your child'. I know my mother went away feeling humiliated when Archbishop Liston and the parish priest said that to her. It was easy to feel humiliated by these men back then. I always found it sickening when I was growing up. I often used to say to my mother, 'They are only human; they can make mistakes'.

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[125] Witness statement of Ms DN, WITN0870001, (Royal Commission of Inquiry into Abuse in Care, 30 September 2021), paras 2.28–2.29.

[126] Witness statement of Ms IO, WITN0558001 (Royal Commission of Inquiry into Abuse in Care, 10 January 2021), para 30.

[127] Witness statement of Mr IH, WITN0671001 (Royal Commission of Inquiry into Abuse in Care, 15 October 2020), para 23.

[128] Witness statement of Mr IH, WITN0671001, para 24.

"I do not know why I was referred to Marylands. When I first arrived there in 1966, I was nine years old. It was a boys' residential school for kids with special needs. I was a normal boy with no special needs other than the need for a caring home."
- Mr AB

I know that she would not have taken it any further than that because you just did not question 'authority' like that back then."[129]

Te ara i takahia ai e ngā tamariki hauā ki te kura o Marylands
Pathway of disabled children to Marylands School

60. Many of the boys who attended Marylands were placed there after having been actively excluded from their local schools or because their families had concluded the local school was not providing an appropriate service. There were limited other options in Christchurch, and even fewer options with the reputation that Marylands had established for itself.

61. Many families were not provided with support and instead were convinced to place their boys at Marylands. Mr IX told the Inquiry:

"There were no local schools that catered for students with intellectual disabilities, so I was sent to Marylands."[130]

62. A previous caregiver at Marylands said the boys had "a wide range of difficulties, including epilepsy, Down syndrome, autism, dyslexia, Prader-Willi syndrome [or required] special care."[131]

63. Some survivors told us at the time their need for extra support was not recognised by their schools prior to enrolment at Marylands and they later received a diagnosis of dyslexia or vision issues by psychiatrists.[132] Some were labelled 'hyperactive' and later diagnosed with attention deficit hyperactivity disorder.

"I have dyslexia, and this was not identified in my earliest years at school. I was struggling at school and a local GP who was our family doctor, and whose name I don't know, suggested to my parents enrol me at Marylands Residential School in Christchurch."[133]

64. We heard from survivors who attended special classes at mainstream schools and were bullied due to the lack of integration and the way society perceived people with disabilities.

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[129] Witness statement of Ms DN, WITN0870001, paras 2.58–2.59.

[130] Witness statement of Mr IX WITN0889001 (Royal Commission of Inquiry into Abuse in Care, 24 November 2021), para 19.

[131] Witness statement of Ms AM, WITN0587001 (Royal Commission of Inquiry into Abuse in Care, 4 June 2020), para 2.3.

[132] Witness statement of Alan Nixon, WITN0716001 (Royal Commission of Inquiry into Abuse in Care, 8 October 2021), para 135.

[133] Witness statement of Mr CZ, WITN0535001 (Royal Commission of Inquiry into Abuse in Care, 19 May 2021), para 1.6.

65. Mr CB described being bullied because of his disabilities. He disliked school and told us that he was constantly running away.

"I was bored because I couldn't learn. I had some trouble with the other children, and I was picked on because of my disabilities."[134]

66. Mr AB, told us that his vision impairment was undiagnosed as a child:

"I found out later in life, when I got glasses, that I had been vision impaired as a child. I had not recognised this as a child. I could not see what the teacher was writing on the blackboard. This may have been a contributing factor to me not wanting to go to school, and to my poor behaviour as a young child."[135]

67. It is clear that children's impairments went undiagnosed and mainstream schooling was usually not well-equipped to provide for the educational or wellbeing needs of disabled children.

68. Timothy Morgan was diagnosed as epileptic at the age of two. He suffered uncontrollable seizures in his teenage years, struggled academically and was placed at Marylands by his family.[136]

69. Some students at Marylands had physical disabilities.[137] There did not appear to be any requirement for social workers to assess the accessibility of the school grounds and facilities before placing State wards with physical disabilities.

Te ara i takahia ai e ngā tamariki Māori ki te kura o Marylands
Pathway of Māori children to Marylands School

70. We do not know the exact number of tamariki Māori who were at Marylands. The Order has no records or information identifying tamariki Māori who attended Marylands.

71. We do know that the number of tamariki Māori at Marylands was not as large as in Department of Social Welfare residences, especially during the 1970s and 1980s. It is likely, however, that of those placed at Marylands by the State, many were Māori.

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[134] Witness statement of Mr CB, WITN0813001 (Royal Commission of Inquiry into Abuse in Care, 22 November 2021), para 2.6.

[135] Witness statement of Mr AB, WITN0420001 (Royal Commission of Inquiry into Abuse in Care, 19 April 2021), para 30.

[136] Witness Statement of Timothy Morgan, WITN0803001, (Royal Commission of Inquiry into Abuse in Care, 11 August 2021), paras 7, 16.

[137] Witness statement of Adam Powell, WITN0627001 (Royal Commission of Inquiry into Abuse in Care, 14 June 2021), para 3.

72. We heard from Māori survivors who were sent to residences operated by the Department of Social Welfare before being moved to Marylands.

73. Adam Powell from Ngāti Raukawa and Tainui, was one of five children. Adam was adopted at an early age into a family with seven other children. He struggled academically, was partially deaf in one ear due to the physical abuse by his adoptive siblings, suffered respiratory problems and had a club foot until the age of six, when it was operated on. After the death of his adoptive mother, his adoptive family placed him at Marylands.[138]

74. James Tasker, a Māori survivor, told us he was from Ruatoria. James was referred to Marylands at age 14 after being expelled from several schools, which he says was due to his behaviour and being over the school age that Beck House Boys' Home cared for.[139]

75. A Māori survivor, Trevor McDonald was sent to the orphanage in 1951 at age five and was moved to Marylands in November 1955. His mother was left to raise six children after his father was sent to prison.

"At the time I believe my father was in jail. There were six children in the family. My mother couldn't cope with that number on her own.[140]

Te ara i takahia ai e ngā tāngata o Te Moana nui a Kiwa ki te kura o Marylands
Pathway of Pacific peoples to Marylands School

76. The Order has limited records or information identifying Pacific children who attended Marylands. The Inquiry acknowledges the lack of information about Pacific children enrolled at Marylands.

He nui rawa te utu mō ngā whakaurutanga tūmataiti ki te kura o Marylands
Private placements to Marylands School came at a significant cost

77. The Department of Social Welfare and the Department of Education funded the placements of children at Marylands.

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138 Witness statement of Adam Powell, WITN0627001, para 17.

139 Witness statement of James Tasker, WITN0675001 (Royal Commission of Inquiry into Abuse in Care, 5 July 2021), paras 13, 18.

140 Witness statement of Trevor McDonald, WITN0399001 (Royal Commission of Inquiry into Abuse in Care, 22 April 2021), para 3.3.

78. However, for private placements, fees were not fully subsidised and the responsibility to pay these fell on the families that placed their children at Marylands. For some families these fees and associated attendance costs caused serious financial hardship.

79. Danny Akula told us he was withdrawn from Marylands because his mother "did not pay any maintenance for me the whole time I was there".[141] One Māori survivor spent only one term at Marylands before being withdrawn by his grandparents, who could not afford the school fees.[142]

80. Ms DN, whose brother attended Marylands, talked about the financial impact:

> *"The school was not cheap, and it involved air flights each school holidays. Those days there were only three term breaks – in May, August and December (the Christmas holidays). Air travel was not as accessible as it is today and along with the expensive flights, I clearly remember having to prepare and pack for his return to school. It involved everything from school uniform, weekend wear, underwear, and toiletries (for example six cakes of soap, six tubes of toothpaste etc.). The list was long and expensive."*[143]

I te tau 1968 i huri te kura o Marylands hei Kura Motuhake Tūmataiti Noho Tara-ā-Whare mō ngā tama hinengaro hauā - In 1968 Marylands School became a Private Special Residential School for Intellectually Handicapped Boys

81. In December 1968 when Marylands relocated from Middleton to the larger site at 26 Nash Road, Halswell, Christchurch, the cohort of students also changed. The Order sought registration to take students with more serious learning difficulties. It applied to the Department of Education for the registration of a portion of Marylands as a "special school for the intellectually handicapped".[144]

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[141] Witness statement of Danny Akula, WITN0745001 (Royal Commission of Inquiry into Abuse in Care, 13 October 2021), para 57.

[142] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 193.

[143] Witness statement of Ms DN, WITN0870001, para 2.62.

[144] Letter from Brother Kilian to the Regional Superintendent, Department of Education, MOE0002100 (22 April 1967).

82. In June 1967, the Prior, Brother Kilian Herbert, advised the Department of Education that:

> *"The change in policy at Marylands is, that since we left our old premises at Halls Road, and moved to this larger place at Halswell Road, we have opened a special residential section for the occupational-type boy. This is a small unit of twenty beds. I.Q. 30/50. On the same property, but some distance removed from the occupational centre, we have seventy boys in residential units. These are from 50/70 I.Q."*[145]

83. It was recommended that the number of 'intellectually handicapped' boys be limited to 20 because of the availability of suitable classroom accommodation and of the separate detached villa where these boys would be housed.[146]

84. From 1967, Marylands became registered as both a "Private Special Residential School for Backward Boys" and a "Private Special School for Intellectually Handicapped Boys".[147] Pupils classified as 'intellectually handicapped' were eligible for a higher daily subsidy from the Department of Health of $1.20 per day (later $1.60 per day) compared with 50 cents per day for other pupils.[148]

85. The State paid a capital subsidy of $39,000 to set up accommodation for 'intellectually handicapped' children at Halswell.[149]

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[145] Letter from Brother Kilian Herbert to Senior Psychologist, Department of Education, regarding the policy change on I.Q. entry criteria to Marylands School, MOE0002104 (6 June 1967).

[146] Letter from DJ Callandar, Senior Adviser on Backward Pupils, Department of Education to the Psychological Services, MOE0002122 (6 October 1967).

[147] Letter from D.H. Ross, Director-General of Education to S.S.P. Hamilton, Regional Superintendent of Education, notifying the granting of joint registration of Marylands School, MOE0002112 (24 August 1967).

[148] Letter from the District Senior Inspector of Schools, Office of the Senior Inspector of Schools to the Superintendent of Education, Department of Education, MOE0002106 (27 June 1967), p 1; Letter from D.H. Ross, Director-General of Education to S.S.P. Hamilton, Regional Superintendent of Education, providing an update on the registration of Marylands as a private special residential school for intellectually handicapped boys, MOE0002109 (22 August 1967); Ministry of Education submission in response to the Royal Commission of Inquiry's (notice to produce 25), MOE0002536, p 54, referring to letter dated 25 July 1972 from the Department of Health to the Department of Education.

[149] Letter from the District Senior Inspector of Schools, to the Superintendent of Education, MOE0002106, p 1; Ministry of Education submission in response to the Royal Commission of Inquiry's (notice to produce 25), MOE0002536, p 54, referring to letter dated 25 July 1972 from the Department of Health to the Department of Education.

He aha i wehe ai te Rangapū i te kura o Marylands
Why the Order decided to withdraw from Marylands School

86. Funding continued to be a major issue with the Order seeking more resources from the State to run Marylands. The Ministers of Education and Health announced a special grant of $10,000 to help meet any deficit in Marylands' operating costs during 1972 and a further grant of $20,000 for 1973.[150]

87. The Order also wanted the State to help fund new school buildings. On 13 February 1973, the Minister of Education and the Associate Minister of Finance inspected Marylands and promised publicly that the State would take immediate steps to rebuild Marylands' buildings.[151]

88. The Minister of Education suggested the State should buy the land and school and be responsible for its maintenance and the rebuild.[152] The State would lease the school to the Order for a nominal rent and further discussions would take place about the State's contribution towards the running expenses of the school.[153] The Prior, Brother Rodger Moloney, accepted this offer in principle.[154]

89. In a 1973 report, Treasury observed that the only sensible approach was to rebuild the school.[155] However, the cost of rebuilding was around $15,000 per bed.[156] At the time, the maximum State assistance per bed for a home for intellectually handicapped children was $5,000.[157] The largest State subsidy available was for accommodation for older people at $7,200 for a home bed and $8,600 for a hospital bed.[158] Therefore, the Marylands cost was out of line with other assistance in the sector.[159]

90. A Cabinet memorandum dated 15 March 1973 observed that Marylands was already receiving State assistance through three State departments: Health, Social Welfare and Education.[160]

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[150] Memorandum for Cabinet Committee on Social Affairs, Ministry of Education, regarding Marylands' operating costs and state funding, MOE0002214 (6 November 1972), p 1.

[151] Letter from the Minister of Education to the Minister of Finance, regarding the inspection of Marylands School on 13 February 1973, CTH0015153 (7 March 1973), p 1.

[152] Letter from the Minister of Education to Brother Moloney, regarding the purchase of land and buildings, CTH0015152 (17 February 1973), p 1.

[153] Letter from the Minister of Education to Brother Moloney, CTH0015152, p 1.

[154] Letter from Prior Brother Rodger Moloney to Mr P.A. Amos, Minister of Education, regarding the Order's acceptance of a leasing arrangement of new school buildings, MOE0002195 (6 March 1973); Memorandum for Cabinet from the Minister of Education, MOE0002199, p 3.

[155] Letter from the Minister of Education to the Minister of Finance, regarding special grants, MOE0002196 (7 March 1973), p 5.

[156] Letter from the Minister of Education to the Minister of Finance, MOE0002196, p 4.

[157] Letter from the Minister of Education to the Minister of Finance, MOE0002196, p 4.

[158] Letter from the Minister of Education to the Minister of Finance, MOE0002196, p 4.

[159] Letter from the Minister of Education to the Minister of Finance, MOE0002196, p 4.

[160] Memorandum for Cabinet from the Minister of Education, requests made by the Order of St John of God for operating and reconstruction costs, MOE0002199, p 3.

91. On 26 March 1973, Cabinet authorised the Department of Education to negotiate to purchase the land necessary for the school from the Order under the Public Works Act 1928.[161] One factor considered in making this decision, was that Marylands was catering for many boys who would otherwise be a direct responsibility of the State.[162]

92. However, the Order was dissatisfied with the Cabinet decision and lobbied for more support.[163] A new, more generous funding agreement was negotiated as a result.[164]

93. In addition, the Cabinet Committee on Social Affairs confirmed the policy of meeting Marylands' operating losses until the school became established in the new buildings provided by the State.[165]

94. Stage one of the new buildings (residential accommodation for 90 boys) was completed in 1978.[166] The Order was reminded it would be responsible for the operating costs of the new complex once the school was fully established.[167] Brother Boxall "could not understand how his people could have entered into [that agreement]".[168] He said annual deficits were running at around $100,000 and the Order would not be able to meet such a cost.[169]

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[161] Letter from the Secretary of Cabinet to the Minister of Education, endorsing government assistance and authorising negotiations regarding land purchase, CTH0015155 (26 March 1973); Cabinet memorandum to Minister of Education, Cabinet meeting 26 March 1973, regarding financial assistance to Marylands Special School, MOE0002201 (27 March 1973).

[162] Memorandum for Cabinet, regarding Marylands School and the proposed financial assistance, CTH0015154 (15 March 1973), para 6.

[163] Memorandum to the Minister of Finance, regarding financial assistance to Marylands Special School, MOE0002243 (9 December 1974), pp 1–10.

[164] Memorandum to the Minister of Finance, MOE0002243, pp 1–10.

[165] Proposal to Minister of Education from Director General of Education, regarding proposed financial assistance for Marylands School, CTH0015156 (24 April 1979), p 1.

[166] Proposal to Minister of Education from Director General of Education, CTH0015156, p 1.

[167] Meeting notes from 28 April 1978 meeting at Marylands Special School, including Department of Education, MOE0002333 (8 May 1978), p 1.

[168] Meeting notes from 28 April 1978 meeting at Marylands Special School, MOE0002333 , p 1.

[169] Meeting notes from 28 April 1978 meeting at Marylands Special School, MOE0002333 , p 1.

95. Treasury expressed concern about the significant increase in the school's operating deficit.[170] The Private Schools Integration Act 1975 gave private schools the opportunity to move into the State-run education system. This meant that they would obtain State funding to maintain and modernise buildings, on the basis that ownership of the land and buildings was retained by the proprietors. [171] This remedy was not available to Marylands as the State had already paid for the site and buildings.[172]

96. In April 1981, the Order submitted a proposal to the Minister of Education that Marylands be granted special financial assistance in the future.[173] The Order said the operating costs of Marylands required more income than could be derived from fees, donations, and the normal grants and subsidies applying to private special schools and residential facilities for 'handicapped' children.[174] It sought an ongoing special grant.[175]

97. Between 1972 and 1982, the Department of Education paid the Order a total of $1,317,484 in special deficit grants.[176] On 28 June 1982, Cabinet approved the continued payment of annual grants to Marylands to reimburse operating losses, subject to certain conditions.[177]

98. On 2 September 1983, the Order advised the Department of Education it was terminating the agreement it had with the Department of Education to manage Marylands.[178]

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[170] Letter from the Minister of Education to the Minister of Finance, regarding Marylands School Christchurch: Special Deficit Grants, MOE0002377 (13 November 1979), p 2.

[171] Ministry of Education submission in response to the Royal Commission of Inquiry's Notice to Produce No. 202: Schedule 2, MOE0002844 (5 July 2021), p 32–33.

[172] Letter from M K Burns (Director-General) to the Minister of Education, regarding Marylands Special School, Christchurch, MOE0002407 (21 May 1980), p 1.

[173] Letter from Stephen Coakley (Prior/Administration) to the Minister of Education, rearding a proposal for special financial assistance for Marylands, MOE0002438 (6 May 1981), p 1.

[174] Letter from Stephen Coakley to the Minister of Education, MOE0002438, p 1.

[175] Letter from Stephen Coakley to the Minister of Education, MOE0002438, p 1.

[176] Ministry of Education submission in response to the Royal Commission of Inquiry's Notice to Produce No. 202: Schedule 2, MOE0002844, p 32.

[177] Memorandum from Cabinet Secretary to Ministers, regarding Marylands Special School, MOE0002480 (June 1982).

[178] Letter from Brother Anthony Leahy to the Minister of Education, meeting confirmation to discuss the Order's decision to terminate the agreement to run Marylands School, MOE0002488 (2 September 1983).

99. The Order said that the department's funding would never enable it to bring the children to their "full potential", even with generous public support.[179] Therefore, the Order considered it better that Marylands become part of the State system.[180] A further reason for the decision was that the Order was short of brothers to run Marylands.[181]

100. Another factor, but not one expressed in official correspondence, was that the cohort of students they were dealing with had changed over time to include disabled boys who had higher support needs. Brother Coakley told us:

"[W]e had a lot of meetings with the government, that started in '81, '82 and then they wouldn't increase the grant because we really needed more staff, for the type of kids because I actually expelled about three, four kids from there because some were very very aggressive and that can be very destructive for other kids and not so much in the school but all in the villas and that you see and all towards your co-workers. So things were certainly changing and so we decided ok we are virtually running a State school now and so we will let them go and so I remember announced to the staff that the Brothers will withdraw early 84."[182]

101. Brother Garchow, who was acting for the Provincial at the time, wrote to Bishop Ashby (Bishop of Christchurch) to say the Order's General Curia (the administrative headquarters) had requested confirmation that the Bishop of Christchurch had no objection to the Order withdrawing.[183] The Bishop of Christchurch replied to say, although he regretted the necessity of Marylands closing, he accepted it.[184]

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[179] Letter from Brother Anthony Leahy to the Minister of Education, MOE0002488.

[180] Letter from Brother Anthony Leahy to the Minister of Education, MOE0002488.

[181] Memorandum for Cabinet from Minister for Education, confirmation of the termination of the agreement to run Marylands School by the Order, MOE0002490 (15 September 1983), p 1.

[182] Transcript of evidence of Brother Stephen Coakley, MSC0008045 (Royal Commission of Inquiry into Abuse in Care, 20 July 2021), p 12.

[183] Letter from Brother Raymond Garchow to Bishop Ashby, regarding the withdrawal of the Order from Marylands, CTH0016753 (20 January 1984).

[184] Letter from Bishop Ashby to Brother Anthony Leahy, regarding the closure of Marylands, regrets the necessity of Marylands closing but accepts its closure, CTH0016752 (24 January 1984).

"Too little was expected and there was a strong resistance to academic programming. Many boys seen only as workshop material and programmed accordingly. There was little understanding of boys needs in the outside world. Programmes of weaving, art work and 'nimble fingers' craft work that dominated did not prepare boys for living in the regular community."
- Department of Education 1984 report

Ka tīmata tā te Kāwanatanga whakahaere i te kura o Marylands
State takes over Marylands School

102. Department of Education officers visited Marylands on 13 September 1983 to carry out a preliminary assessment.[185] They concluded there was merit in making it a State-run special school.[186] The additional annual cost of doing so was assessed at $650,000. [187] The main reason for the increased cost was that the brothers, whom the Department of Education paid a stipend of $21,000 per year, would need to be replaced by salaried staff.[188]

103. In a September 1983 Cabinet memorandum, the Minister of Education proposed that Cabinet agree in principle to the acceptance of the control and administration of Marylands.[189] This proposal was approved by Cabinet on 19 September 1983, subject to conditions to be confirmed by the Cabinet Committee on Family and Social Affairs.[190] An official transfer date of 23 January 1984 was noted.[191] As part of this agreement, it was proposed to change the name of the school immediately to Hogben School.[192]

104. When the Department of Education took over the school in 1984, it found the school to be in poor shape. Many teachers employed by the Order to teach at Marylands lacked specialist qualifications and teaching experience.[193]

105. In the 1984 annual report on Marylands, the appointed principal of Hogben School said:

"Many pupils found the new management strategies strange initially. Their expectations were of physical chastisement ...

It was quite obvious that in the laundry and to a lesser extent in the garden, boys had been used to supplement a shortfall in labour ...

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[185] Memorandum for Cabinet from Minister for Education, regarding Marylands Special School, MOE0002490 (15 September 1983), p 2.
[186] Memorandum for Cabinet from Minister for Education, MOE0002490, p 2.
[187] Memorandum for Cabinet from Minister for Education, MOE0002490, p 2.
[188] Memorandum for Cabinet from Minister for Education, MOE0002490, p 2.
[189] Memorandum for Cabinet from Minister for Education, MOE0002490, p 2.
[190] Extract from Minutes of Cabinet Committee meeting held on 19 September 1983, regarding Marylands Special School, MOE0002492 (21 September 1983).
[191] Extract from Minutes of Cabinet Committee meeting held on 20 September 1983, regarding Marylands Special School, MOE0002495 (21 September 1983), p 2.
[192] Proposal from the Director-General, Department of Education to the Minister of Education, MOE0002531 (17 July 1984), p 1.
[193] 1984 Annual Report for Hogben School, by B D Bridges, Principal MOE0002851 (1984), p 9.

Most teachers inherited have poor qualifications and lack significant teaching experience. None had any specialist qualifications. As a result the quality of the teaching programme was not high, there was a lack of coordinated programmes, individual classes did their 'own thing', management techniques were lacking. There was, and still is with some, poor understanding of the boys' ability. Too little was expected and there was a strong resistance to academic programming. Many boys seen only as workshop material and programmed accordingly. There was little understanding of boys needs in the outside world. Programmes of weaving, art work and 'nimble fingers' craft work that dominated did not prepare boys for living in the regular community."[194]

106. Seven full-time teachers were transferred from Marylands.[195] The principal noted that there was a small number of teachers who continued to resist the new programmes and goal setting.[196] Classroom co-ordination, age banding, the removal of corporal punishment, the withdrawal of the right to religious teaching in the classroom, and the change in direction away from the intellectually handicapped had all been contentious issues.[197]

107. By the time of the 1985 annual report, matters had reportedly improved considerably. The principal noted that it was "particularly heartening to observe boys previously 'written off' to be reading and undertaking classroom activities previously regarded as beyond their possibilities."[198]

108. Despite reports of improved student learning, in 1997 two reports of sexual abuse were alleged against two Hogben School nightshift attendants by several students.[199] Both nightshift attendants were charged, but only one was convicted.

109. It appears that many records were lost during the transition period. Some were apparently burned.[200]

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194 1984 Annual Report for Hogben School, MOE0002851, pp 2, 4 and 9.

195 Ministry of Education submission in response to the Royal Commission of Inquiry's Notice to Produce No. 202: Schedule 2, MOE0002844, p 8.

196 1984 Annual Report for Hogben School, MOE0002851, p 10.

197 1984 Annual Report for Hogben School, MOE0002851, p 10.

198 1985 Annual Report for Hogben School, by B D Bridges, Principal, MOE0002852 (1985), p 5.

199 Witness Statement of Graeme Daniel, WITN1307001 (Royal Commission of Inquiry into Abuse in Care, 27 May 2021), para 32.

200 NZ Police Report Form, Sergeant L F Corbett, files regarding complaints of sexual abuse against McGrath, NZP0014848 (29 October 1993), p 2.

Ngā Whakakitenga: Ngā ara ki te taurimatanga Findings: Pathways into care

110. The Royal Commission finds at Marylands:

a. Tamariki were referred to Marylands by State agencies, health professionals and parents. It was established for disabled boys but many boys who attended were not disabled. Some of the boys were placed at Marylands as State wards, some had behavioural problems and were excluded from their local school, and some were placed at Marylands because their whānau were either advised or felt they would get a better education.

b. The psychological, learning and educational needs of tamariki placed at Marylands by the State, or privately, were often inadequately assessed at the time of placement. Their emotional and physical needs were not met nor was their need for a loving home.

c. Private placements to Marylands were charged attendance fees and other associated costs that placed significant strain on some whānau and prevented enrolment and attendance.

Mr ES

Mr ES –
"After the abuse, my life deteriorated"

Ngā wheako o ngā purapura ora - Survivor experience:

Name	Mr ES[201]
Age when entered care	Early teens
Age now	46 years old
Hometown	Christchurch
Time in care	Early 1990s, 1993 in Kingslea
Type of care facility	Hebron Trust – community service, youth justice placement. Residential School – Kingslea.
Ethnicity	Pākehā
Whānau background	One younger brother
Current	Mr ES is estranged from his family. He has children of his own but the relationships are difficult.

I started getting into a bit of trouble in my early teens, probably because of who I was hanging out with. I was breaking into the odd car, and I came to the attention of the police. Instead of going to court, they organised community service work for me at Brother McGrath's house – gardening and other chores.

A lot of skinheads were hanging around at Brother McGrath's house, huffing and sniffing petrol or glue. They were around 15 to 17 years old, a bit older than me.

I was out in the garden and Brother McGrath called me into the office. He started off being nice, then turned bad, and made me put his penis in my mouth. I was completely shocked, but Brother McGrath just dropped me home afterwards as if nothing had happened. He told me he worked with the police and if I said anything about what he'd done, then I'd be put into the boys' home. I didn't tell my parents, because I didn't think they'd believe me anyway.

I had to keep going to Brother McGrath's house. The second time he called me into the office, he sodomised me. He threatened me again, saying if I told anyone what had happened, that he was in with the police, and no one would believe me.

I left the property after I was raped. I remember walking down a road. My underpants had blood in them. I ripped them off and threw them away. I had no idea if the police were going to come looking for me, but nothing happened – I didn't get called back to do more community work.

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[201] Witness statement of Mr ES, WITN0734001 (Royal Commission of Inquiry into Abuse in Care, 8 November 2021).

After the rape by Brother McGrath my life deteriorated. I pretty much left home, joined up with skinheads and started sniffing glue with them. I ended up becoming a drug addict. I did a stint in the Kingslea Secure Unit after gate-crashing a party with members of a gang. Everyone else was older than me so they were arrested and held in police custody, whereas I was admitted to Kingslea. Although I was only there once, my life continued to get worse, and my offending got more serious. I went to prison a couple of times. Drug and alcohol abuse are still a problem for me.

The abuse by Brother McGrath has made me hate the church. I've hated people in authority for years. For many years, I hated the police, but now I've realised it's probably not so much their fault.

My ability to trust people has been completely broken. I have difficulties with personal relationships – every relationship I've had has failed miserably because of trust issues, and because of my abuse of drugs and alcohol.

I have trouble sleeping and lots of nightmares, as well as flashbacks to the abuse. Sometimes I'll be driving up the road where the house was, and I'll get really, really angry.

Because of the abuse, I haven't been able to hold down jobs for very long. I start getting angry at people for no reason.

I'm estranged from my parents. In some ways, I blame them for the abuse because they were part of sending me to Brother McGrath. I'm over-protective with my own children – always worried about them.

I've agreed to contribute my story because it's important to me that people who have been abused get proper compensation and services to help us get ahead in life.

Upoko Tuatoru: Te Tarati o Hebron

Chapter Three: Hebron Trust

Upoko Tuatoru: Te Tarati o Hebron
Chapter Three: Hebron Trust

Whakatakinga
Introduction

1. It's important to understand how Hebron Trust was established and operated, Brother McGrath's role in this, and the involvement of the State which approved Hebron Trust to be a State approved provider of care. We'll then outline the pathways or circumstances that led to tamariki and rangatahi (usually teenagers, although some as young as 8), coming into the care of Hebron Trust.

2. We set out findings at the end of this chapter.

Ka pōhiritia te Rangapū e te Pīhopa Katorika o Ōtautahi kia whakaritea he manatū mō ngā rangatahi kāinga kore me ngā tamariki noho tiriti
Christchurch Catholic Bishop invites Order to set up youth ministry for homeless youth and street kids

3. After the Order left Marylands in 1984, it had to make major decisions about how it was going to continue to operate in Aotearoa New Zealand, if at all.

4. In January 1986, a two-day meeting was held at the Australian headquarters of the Order in Burwood, Sydney. The meeting was attended by Bishop Hanrahan from Christchurch.[202] Bishop Hanrahan saw a growing problem with homeless people or 'street kids' in Christchurch and invited the brothers to establish a youth ministry to support at-risk young people[203], many of whom were Māori.[204] Bishop Hanrahan felt he was unable personally to respond to the needs of these young people but felt the church had a role in reaching out to them.[205]

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[202] Schedule of St John of God two-day meeting, A programme to discern the future of our Order in New Zealand – 17 to 18 January 1986, CTH0016720 (no date), p 1; Letter from Brother Anthony Leahy to Bishop Hanrahan, seeking guidance about the order's presence and possible contribution to New Zealand, CTH0016721 (26 November 1985).

[203] Transcript of opening statement of the Bishops and Congregational Leaders of the Catholic Church in Aotearoa from the Marylands School public hearing, TRN0000411, (Royal Commission of Inquiry into Abuse in Care, 09 February 2022) p 5.

[204] Hebron Trust Statistics, 17 April 1988 to 13 July 1990, CTH0012268, Hebron Trust (20 August 1989), p 45.

[205] Statement by Catholic Social Services, regarding the Hebron Youth Trust, CTH0012268 (14 June 1989), p 25.

5. Brother McGrath had a key role in scoping and implementing Bishop Hanrahan's vision and the church's role.[206]

6. Brother McGrath delivered a report to Bishop Hanrahan and the Provincial of the Order, summarising his impression of the need for services and made a number of recommendations to the brothers about accepting the Bishop's offer to establish these services.[207]

7. Brother McGrath suggested the Order provide a house for emergency accommodation.[208] He outlined a need to help inner city street kids, who had been in other institutions or ostracised from their family, and a need to help families living in the suburbs, who were excluded from welfare.[209]

8. On 8 December 1986, Brother Pius Hornby wrote to Brother McGrath to say that his report had been received enthusiastically by the Provincial Council. The Council wanted Brother McGrath to continue his research until the "appropriate time for more formal arrangements".[210]

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[206] Evaluation: Report to the Christchurch Community, Report to the Provincial, CTH0012268 (13 February 1988), pp 59 – 69.

[207] Te Rōpū Tautoko Marylands Briefing Paper 2: Summary of events relating to the Hebron Trust, MSC0007268 (23 July 2021), para 9.

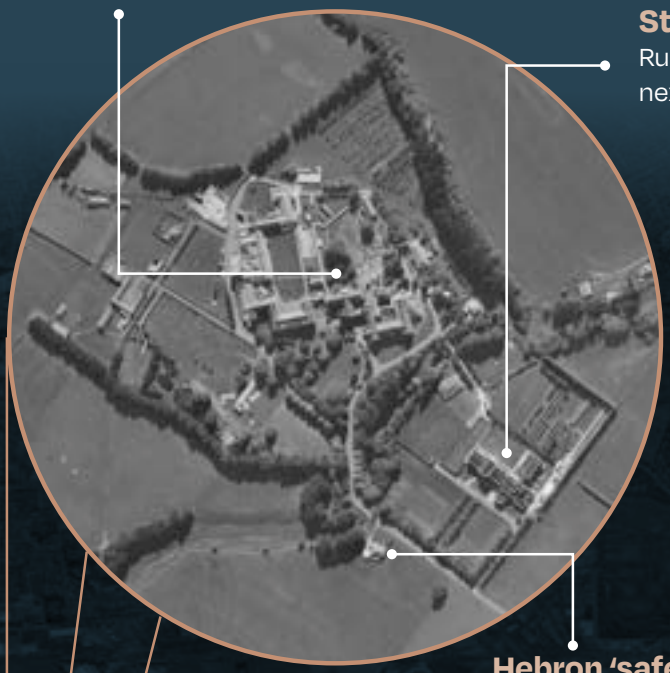
[208] Proposal to Bishop Hanrahan and Brother Hornby regarding "street kids" from Brother McGrath, CTH0016723 (2 November 1986), p 3.

[209] Proposal to Bishop Hanrahan and Brother Hornby regarding "street kids" from Brother McGrath, CTH0016723, p 3.

[210] Letter from Brother Hornby (Provincial) to Bernard McGrath regarding McGrath's report, CTH0012268 (8 December 1986) p 281.

Marylands School, Hebron Trust 'safe house' locations, St Joseph's Orphanage

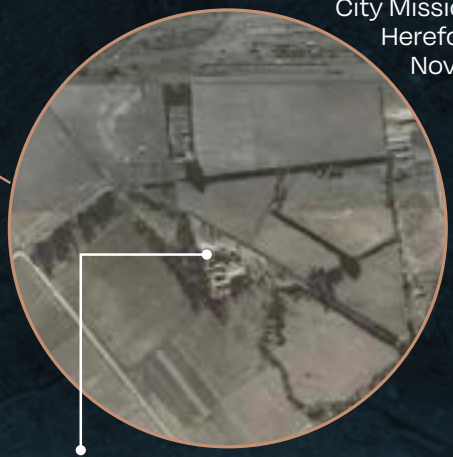
1968 – 1984 Marylands School Halswell



St Joseph's Orphanage
Run by the Sisters of Nazareth, next to Marylands School

Hebron 'safe house' Waipuna
17 Havelock Street, Phillipstown (December 1988 to unknown) above, previously operated from Anglican City Mission Youth House on Hereford Street (April – November 1988)

Hebron 'safe house' Silverwind/Farm Cottage
Nash Road, Aidanfield (opened December 1988)



1955 – 1968 Marylands School Middleton
The old Middleton (Marylands School) buildings and cemetery decommissioned and Marylands Reserve developed on the site

Hebron 'safe house' Pampuri
187 Halswell Road, Christchurch (opened January 1990)

This is an aerial map of Christchurch taken in the 1950s

Ka hoki anō a Parata McGrath ki Aotearoa Niu Tīreni ki te mahi i Ōtautahi
Brother McGrath returns to Aotearoa New Zealand to work in Christchurch

9. After carrying out the scoping exercise, Brother McGrath remained in Christchurch, working under the umbrella of Te Roopu Awhina[211] and the supervision of Catholic Social Services, while the Order and Bishop Hanrahan worked out an agreement.[212] On 24 December 1986, the Bishop sent Brother Pius Hornby an undated apostolic employment agreement between the diocese and the Order.

10. Bishop Hanrahan sought funding for the work, largely through the Maurice Carter Trust. Later, funding for staff would come through a variety of State and community grants.

11. From 1988, Brother McGrath's activities expanded.[213] A short-term accommodation refuge called 'Waipuna' opened in April 1988, located on Hereford Street next to the City Mission shelter, then moved to Havelock Street, Linwood in December 1988. By June 1989 it had five paid staff. Waipuna was intended to provide 'time-out' for young people, a break for the young person's family and a chance to plan the next step.[214] Many clients were self-referred.[215]

12. Brother McGrath ran the refuge and lived on site. The Order could not explain why he was permitted to reside outside the local religious monastery. In living outside the monastery, Brother McGrath operated without any supervision or oversight by Church leaders.

13. In a letter from Brother Timothy Boxall to the Provincial Brother Pius Hornby confirming financial support for Brother McGrath's activities, he indicated concerns about Brother McGrath's lack of supervision and the fact he was putting himself in dangerous situations:

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[211] Te Roopu Awhina was an existing venture between Catholic Social Services, the Anglican City Mission and Moranga House.

[212] Catholic Social Services is an agency of the Roman Catholic Diocese of Christchurch.

[213] Statement by Catholic Social Services, CTH0012268, p 27.

[214] Statement by Catholic Social Services, CTH0012268, p 207.

[215] Information about Waipuna Youth Refuge, Hebron Trust, CTH0012268 (no date) p 378.

"My concern is Bernard [McGrath] and his almost complete isolation from the community. He comes and goes and mostly for a specific reason doing his washing, checking his answering service, but never stops or sleeps here or attends mass or any community exercise. We really do not know any of his movements and only expect him when we see him and in all honesty he is often forgotten about.

[Brother] Berchmans only mentioned how Bernard was putting himself into vulnerable situations, by bringing young girls to the monastery in the evenings. I am sure he sees no danger as he is so wrapped up in his work and doesn't see the dangers. Maybe it is his intention to set up house in his new location, but this was never anticipated when we voted for the house.

I am not sure of the answer but feel someone should perhaps discuss his intentions and his future with him. I would like this done by yourself or a councillor as I am not confident in dealing with this delicate subject."[216]

14. We have not seen any evidence of any action taken as a result of the concerns Brother Boxall raised.

15. As young people moved through Waipuna, staff became conscious of a need for a 'half-way' home where more living skills could be learned before the young people moved into their own flats.[217] In December 1988, expansion continued and a new 'safe house', called alternatively Silverwind or Farm Cottage, was opened in Christchurch.[218] It was established specifically for women, with the aims of giving young women time out from their families, time to prepare for a flatting situation, 'straight' time before entering a treatment programme, or time to transition back into society after discharge from a treatment programme or institutional care.[219]

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[216] Letter from Brother Boxall to Brother Pius, CTH0012032_00002 (31 August 1988), p 3-4.

[217] Hebron Youth Trust, CTH0012268 (Catholic Social Services, 14 June 1989), p 27.

[218] Te Rōpū Tautoko Marylands Briefing Paper 2, MSC0007268, para 26, See also: Hebron Trust Statistics, 17 April 1988 to 13 July 1990, CTH0012268 (Hebron Trust, 20 August 1989), pp 46–47; Brief History of the Hebron Trust, 1986 to 1995, CTH0015131, p 5.

[219] Information about Farm Cottage / Pampuri, Hebron Trust, CTH0012268 (undated), p 390.

16. While there is some uncertainty regarding the extent of services that were provided through (what became in 1989) Hebron Trust over the period from 1986 to 1992, the organisation ran refuges and drop-in centres for youth, and also ran separate safe-houses for women and men. Brother McGrath was primarily responsible at an operational level but there is evidence he provided reports to the Bishop and the Order. It did not have a name until April 1989, when Brother McGrath chose the name 'Hebron'.[220] In January 1990, Hebron Trust expanded further, establishing another 'safe house', this time for young men, called Pampuri House, also in Christchurch. From May 1990, Hebron Trust had also established additional drop-in centres aimed at street kids.

Ka whakaaetia te noho a te Tarati o Hebron hei ratonga mō te Kāwanatanga
Hebron Trust approved as State service provider

17. On 2 May 1990, Hebron Trust was approved by the State as a service provider. Records show that the initial application was declined by the Department of Social Welfare, due to the lack of confidence in Hebron Trust being able to deliver services on the scale proposed, and the effectiveness of services proposed. Hebron Trust was subsequently approved but no documents were located as to why the application was approved.[221]

18. The Community Funding Agency in the Department of Social Welfare was established in 1992. Hebron Trust received conditional approval as a Child and Family Support Service under section 396 of the Children, Young Persons and Their Families Act 1989 on 20 October 1992.[222]

19. The agency's Procedures Handbook required that no person with any conviction for violence against a person (including sexual violations) and/or dishonesty was to be involved with the care of children and young people. The procedures used for recruiting staff and ensuring their suitability were described with documentary proof produced and had to be forwarded to the agency to file.

20. The agency assessed Hebron Trust against the Standards of Approval annually.[223]

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[220] Te Rōpū Tautoko Marylands Briefing Paper 2, MSC0007268, para 27.
[221] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 27.
[222] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, paras 27, 29.
[223] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 29.

"[Brother] Berchmans only mentioned how Bernard was putting himself into vulnerable situations, by bringing young girls to the monastery in the evenings. I am sure he sees no danger as he is so wrapped up in his work and doesn't see the dangers. Maybe it is his intention to set up house in his new location, but this was never anticipated when we voted for the house".

- Letter from Prior Br Boxall to Provincial Brother Pius Hornby

Kō wai te hunga i taurimatia e te Tarati o Hebron
Who was cared for by Hebron Trust

21. Information is limited on who passed through Hebron Trust facilities and why they were there. The Order does not have a record of the numbers of youth that were cared for by Hebron Trust. The Inquiry has received some information from the Order about Hebron Trust residents for the period 1988 to 1990, which gives a snapshot of the numbers passing through and the gender and ethnicity of those in care. [224]

22. We know that Hebron Trust residents were usually teenagers, although the Inquiry has heard from Hebron Trust survivors who were as young as eight[225] and ten years old.[226]

23. The total number of complaints of abuse relating to Māori, Pacific peoples and disabled people is unknown because that "data has never specifically been collected by the [o]rder".[227]

24. According to the instructions of Hebron's Waipuna refuge, when a child arrived at any Hebron Trust facilities, the staff member took their name and contacted their parents, the Department of Social Welfare (prior to the establishment of the Children, Young Persons and their Families Service) or police, to let them know the child was there.[228]

25. According to survivor Mr EU, when he sought redress from the Order in relation to abuse at Hebron Trust, he was told "there was a lack of contemporaneous records to support the claim".[229]

26. From 17 April 1988 to 20 August 1989, 119 young people had been housed, 64 of whom had returned for a further placement.[230] The ethnicity of these young people was 62 Pākeha, 56 Māori and one Samoan.[231] Figures 3 and 4 illustrate this.

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[224] Hebron Trust Statistics, CTH0012268, p 46–47.

[225] Witness statement of Mr EP, WITN0727001 (Royal Commission of Inquiry into Abuse in Care, 16 October 2021), para 16.

[226] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, paras 288.

[227] Te Rōpū Tautoko Marylands Briefing Paper 6: Nature and extent of abuse in the care of the Hebron Trust, as amended on 17 December 2021, CTH0020744, p 3.

[228] Hebron Trust Statistics, CTH0012268, p 46-47.

[229] Witness statement of Mr EU, WITN0709001 (Royal Commission of Inquiry into Abuse in Care, 12 October 2021), para 83.

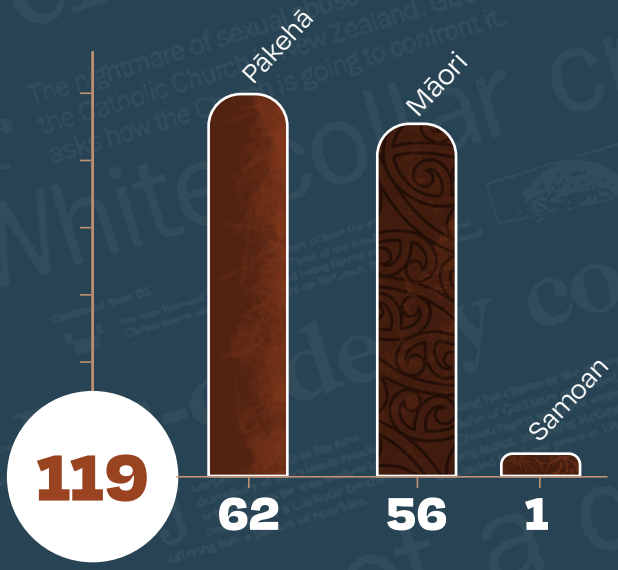
[230] Hebron Trust Statistics, CTH0012268, p 46-47.

[231] Of the total 193 young people, (119 were residents and 74 were non-residents) 47 were female and 146 were male.

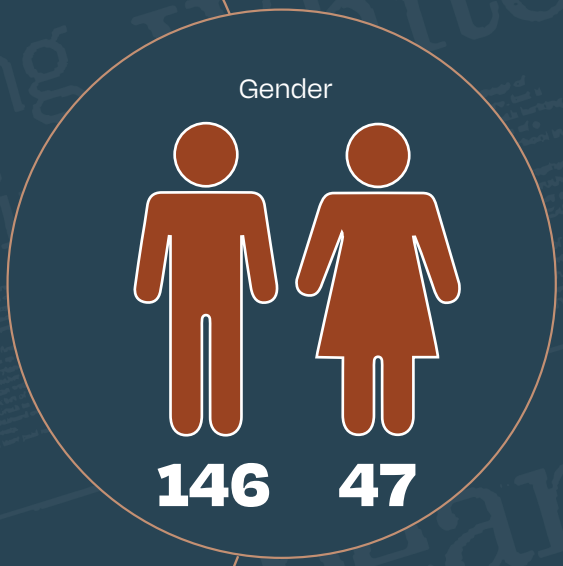
Hebron Trust by ethnicity

Hebron Trust residents

17 April 1988 to 20 August 1989

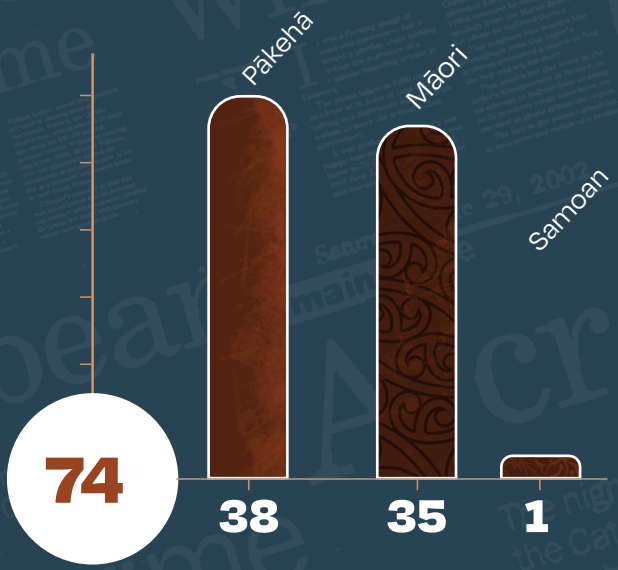


From 17 April 1988 to 20 August 1989, 119 young people had been housed. This was 62 Pākehā, 56 Māori and one Samoan



Hebron Trust non-residents

17 April 1988 to 20 August 1989



From 17 April 1988 to 20 August 1989, 74 young people had contacted the Hebron Trust in some capacity. Of those 38 were Pākehā, 35 Māori and one Samoan

"Brother McGrath presented himself as my advocate, mentor, counsellor and support person. He was my 'responsible adult' that handled communications and clothing grants from DSW social workers and communications from my appointed lawyer. He attended Family Group Conferences with me and encouraged the court to remand me in his custody to carry out community work.
He was widely respected in the community, and this made me feel more alone because nobody would believe me if I tried to report the abuse to anyone."

– Justin Taia

27. From 17 April 1988 to 13 July 1990, 331 young people had contacted Hebron Trust in some capacity. Of those, 153 were Māori, 168 were Pākehā, seven were Samoan, one was Tongan, one Greek and one Lebanese. There were 240 males and 91 females.[232]

28. From this data, it appears there were approximately equal numbers of Māori and Pākehā young people in care at Hebron Trust and more young males than females. The number of Māori were disproportionate to the number of Māori in Christchurch at the time.[233]

29. Based on Hebron Trust statistics collected for the period mentioned above, it seems that the number of young people cared for by Hebron Trust increased signficantly from that point. In a letter to Bishop Basil Meeking in 1992, Brother Bernard McGrath thanked the Bishop for allowing Hebron Trust to distribute a fundraising pamphlet, and noted that 680 youths were cared for within an 18-month period:

"During the eighteen months up till 31st December 1991, 680 young people passed through Waipuna, Hebron's youth refuge in Linwood."[234]

30. The pamphlet was published with the Order projecting that a high number of young people would be cared for by Hebron Trust, the pamphlet read:

"This year, just to cope with the programme we are committed to, is going to cost us approximately $443,700. This will help over 700 kids directly and indirectly. It sounds a lot of money but when we take into account food, power, programme costs, administrative costs, salaries and general running expenses – well it doesn't go far."[235]

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[232] Hebron Trust Statistics, CTH0012268, p 307.

[233] Historically, the population of Māori in the South Island has been comparatively smaller than that of the North Island. Census data from 1951 shows that of the 115,676 Māori in Aotearoa New Zealand, only 4,000 are recorded as living in the South Island. This trend continues, five years later in 1956 of the total 137,151 Māori, only 5,200 were living in the South Island.

[234] Letter from Brother McGrath to Bishop Meeking, regarding the Hebron Trust's strategic plan, CTH0016761, (4 March 1992) p 1.

[235] Hebron Community Trust Pamphlet, CTH0012268, p 2.

Te ara i takahia e te hunga taiohi ki te taurimatanga a te Tarati o Hebron
Pathways of young people to Hebron Trust care

31. Young people came into the care of Hebron Trust (and its predecessor organisations) through several different pathways. Between 17 April 1988 and 20 August 1989, 80 percent of residents and non-residents were self-referred, and 20 percent referred by an agency.[236] It is unclear, however, what the term "self-referred" covers. For example, it may include young people who ran away from other family or other institutions and had nowhere else to go, family members suggesting the young person go into the care of the Hebron Trust, or Brother McGrath himself picking up young people from the street and taking them in, or possibly a combination approach.

32. We have heard from survivors who were referred to Hebron Trust through youth justice placements. Lee Robinson who provided legal service to the Catholic Church and the Order in the 1990s and 2000s, said that although unable to exactly quantify how often it occurred, "Judges would frequently refer youth to receive services and guidance from the Hebron Trust."[237] Mr Robinson stated that "this was presumably because of the Trust's reputation and Brother McGrath's standing in the community at that time."[238] There didn't appear to be a formal assessment of the appropriateness of these referrals.

33. Lew Corbett, a retired police officer, said police would frequently place 'street kids' with Hebron Trust:

"Before my investigation into Bernard McGrath, I was aware of who he was through my dealings with him in the police. When working in and around Christchurch, it was common to uplift children who were street kids or runaways and deliver them to the Hebron Trust where it was believed they would be supported.

Quite often young persons from the youth court, who had been in trouble, were either remanded or directed by the courts to the custody of the Hebron Trust run by McGrath."[239]

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[236] Hebron Trust Statistics, CTH0012268, pp 46–47.

[237] Witness statement of Lee Robinson, WITN0836001 (Royal Commission of Inquiry into Abuse in Care, 23 July 2021), para 69.

[238] Witness statement of Lee Robinson, WITN0836001 (Royal Commission of Inquiry into Abuse in Care, 23 July 2021), para 69.

[239] Witness statement of Lew Corbett, WITN1146001, paras 3.19, 3.20.

34. We have also heard from survivors who had been sexually abused by Brother McGrath previously, when they were living on the streets, and Brother McGrath supplied them with alcohol, money and drugs, and who were then later placed at Hebron Trust as part of community work, only to be sexually abused again.

35. Mr GJ told us he went through a family group conference and was placed at Hebron Trust for breaking into his school at age 13. He realised that Brother McGrath was the same man that supplied him with drugs and sexually abused him when Mr GJ was nine or ten years old, a vulnerable child who spent time in the local park to escape his family violence.[240]

36. Survivors were also placed into Hebron Trust's care through their own families or whānau, including where family members adhered to other faiths such as the Salvation Army.[241]

37. Mr EU's mother worked for the Order, and asked Brother McGrath to help with her two sons' behavioural problems. Brother McGrath visited Mr EU in his family home and on the Marylands school grounds, where Brother McGrath sexually abused him. Several years later Mr EU was sent to Hebron Trust while undergoing community work.

"On one occasion, at the end of community work, my mother took me to the chapel at the St John of God Hospital. Brother McGrath was there. My mother knew that Brother McGrath ran a house that cared for troubled boys. My mother thought it might be good for me to have two weeks break from the family, staying with Brother McGrath."[242]

38. For the 'street kid' drop-in centres run by Hebron Trust, the young person initiated contact. There is no information about what led those young people to connect with Hebron. There is also no information on their ethnicity or ages.

39. Mr CA told us:

"All the street kids knew that Brother Bernard was someone who would give us food and money, if we asked for it."[243]

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[240] Witness statement of Mr GJ, WITN0731001 (Royal Commission of Inquiry into Abuse in Care, 5 January 2021), paras 33–35, 43–46.

[241] Witness statement of Mr IS, WITN0972001 (Royal Commission of Inquiry into Abuse in Care, 30 November 2021), paras 3.10 and 3.11.

[242] Witness statement of Mr EU, WITN0709001, paras 3–10, 30.

[243] Witness statement of Mr CA, WITN0721001 (Royal Commission of Inquiry into Abuse in Care, 17 September 2021), para 91.

Ngā ara Māori ki te Tarati o Hebron
Māori pathways to Hebron Trust

40. The Order has limited records of the number of Māori who attended Hebron Trust. The Inquiry itself also has limited firsthand survivor evidence from Māori and their experiences at Hebron Trust.

41. In the early 1990s at the age of 15, Hanz Freller, Māori and Austrian, whose immediate family had broken down, was placed at Hebron Trust's Pampuri home, in Christchurch, after his grandparents could no longer care for him. He told us:

"You know, my mind starting to sort of tick, why is this person asking me to live in this house because I'm not a street kid, I haven't been naughty enough to go to court."[244]

42. Justin Taia told the Inquiry that he was spending time with the 'street kids' and that is how he first came into contact with Brother McGrath. He said that Brother McGrath groomed him and abused him for four years.[245]

Ngā ara a ngā tāngata o Te Moana nui a Kiwa ki te Tarati o Hebron
Pacific peoples' pathways to Hebron Trust

43. The Order has no official records of the number of Pacific persons who attended Hebron Trust. The Inquiry itself also has limited direct survivor evidence from Pacific people and their experiences at Hebron Trust.

44. Mr EP told us his father was physically abusive towards his mother. His father left when Mr EP was young and his mother was regularly absent. Mr EP's brother was placed in foster care. Mr EP was aged between five and eight years old when he was sexually abused by Brother McGrath while visiting Hebron Trust facilities with his brother.

"When I was growing up, [my brother] used to go to Hebron House. It was quite close to our home, and I think [my brother] was sent there to do some community work, as he had been in trouble with the police."[246]

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[244] Transcript of evidence of Hanz Freller from the Marylands School public hearing, TRN0000413 (Royal Commission of Inquiry into Abuse in Care, 11 February 2021), p 28 pp 26.

[245] Witness statement of Justin Taia, WITN0759001 (Royal Commission of Inquiry into Abuse in Care, 8 November 2022), para 56.

[246] Witness statement of Mr EP, WITN0727001 (Royal Commission of Inquiry into Abuse in Care, 16 October 2021), para 13.

45. A client of Cooper Legal, of Palagi and Tongan descent, lived on and off the streets between 1986 and 1989. She recalls Brother McGrath being a constant presence on the streets. He would come around in a van, collecting young people and taking them back to Hebron Trust. She said that he hated the girls. The boys would sneak her and other girls in late at night. They would use Hebron Trust as a warm place to sleep over night. She had an official placement at Waipuna for about two and a half weeks in approximately 1988. Her Department of Social Welfare file records this as being "rescued" from the "street kid scene by Brother McGrath". She later had community work placements through Hebron Trust.[247]

Ngā Whakakitenga: Tarati o Hebron Findings: Hebron Trust

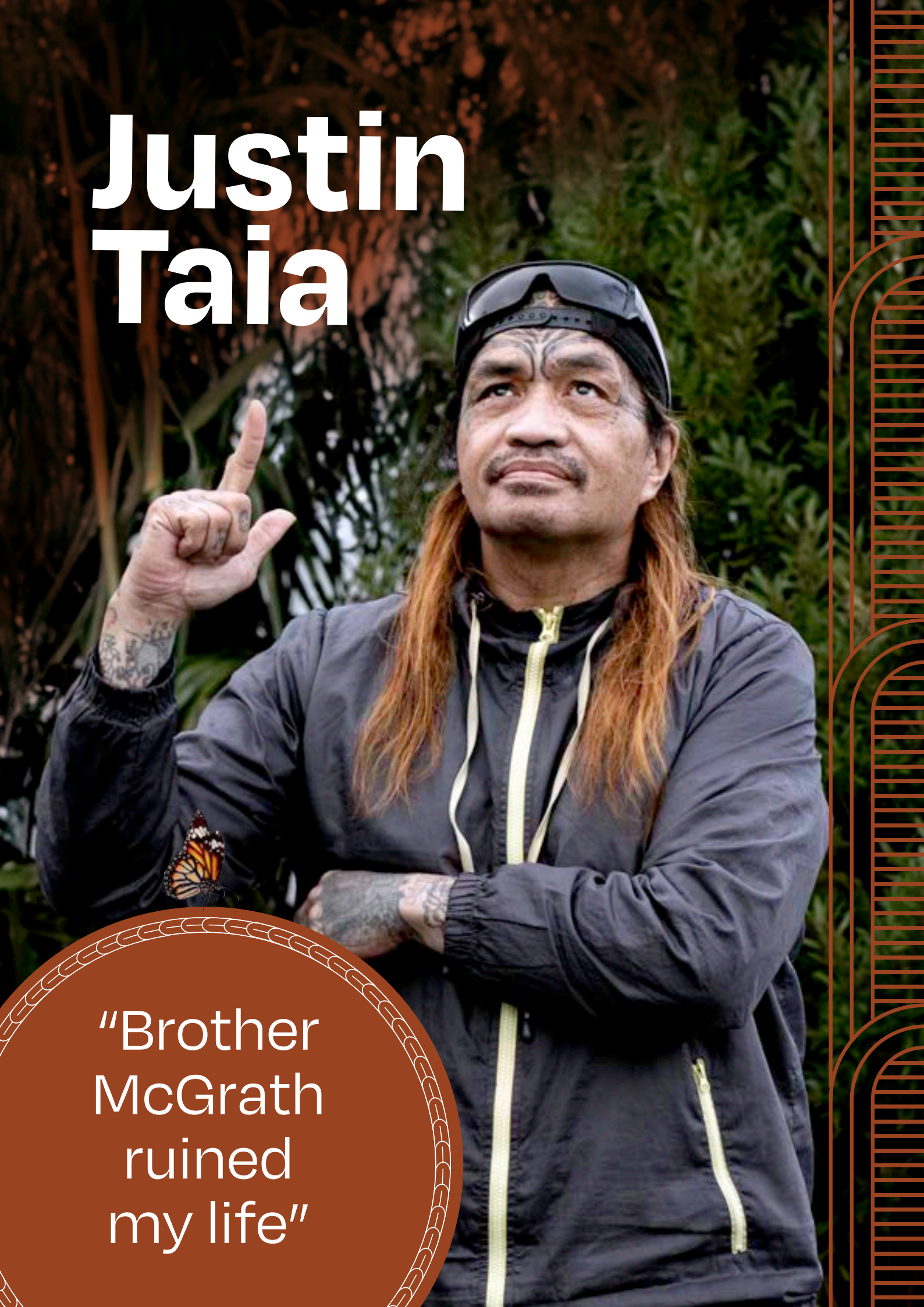
46. The Royal Commission finds:

    a. During the earlier years of its existence, Hebron Trust was informal, largely unregulated and its operations were mostly unmonitored by the Order or by the Bishop of Christchurch.

    b. Police and the courts often referred rangatahi to Hebron Trust to receive services and guidance but without proper assessment as to the appropriateness of this placement. Many of the rangatahi were homeless, were in the justice system and suffered from substance abuse issues. The number of rangatahi Māori in the care of Hebron Trust was disproportionate to the population of Christchurch.

[247] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, paras 734–738.

Justin Taia



"Brother McGrath ruined my life"

⚠ Ngā wheako o ngā purapura ora - Survivor experience:

Name	Justin Taia[248]
Age when entered care	3 years old
Age now	50 years old
Hometown	Christchurch
Time in care	1976 to 1992
Type of care facility	Residential schools for boys – Campbell Park School Hogben School foster care family homes Hebron Trust boys' home – Kingslea Residential Centre Secure Unit
Ethnicity	Māori – Ngāti Ranginui
Whānau background	Two older sisters and one younger sister. Justin also had an older brother, who ended his life in his 20s.
Current	Justin has a son, who he does not have access to.

Brother McGrath ruined my life. I'm really angry about the abuse. I have sometimes taken that anger out on other people, which has made me end up in prison.

I have got tattoos all over my body, to try to kill the pain.

Child Welfare was involved with my family before I was born, because of domestic violence within the home. Despite Child Welfare being involved, nothing changed.

I suffered significant abuse growing up in Social Welfare care, including repeated rapes at Campbell Park School. I disclosed this abuse and a number of other victims came forward. When I was 15, in 1988, I was a witness in a trial about what happended to me at Campbell Park School. He was found not guilty, although I understand that he has more recently been found guilty of similar offending.

I was around 15 years old, basically living on the streets and hanging out with other street kids. I was abusing alcohol, drugs and solvents. It was during this time I first met Brother Bernard McGrath, who groomed and later abused me for several years.

[248] Witness statement of Justin Taia, WIT0759001 (Royal Commission of Inquiry into Abuse in Care, 8 November 2022)

He would come around and invite the street kids to his house owned by the St John of God Brothers, for food or a bed. He started getting really close to me, like a friend. After a while, he would also invite me to have community meals with the other brothers or staff.

I ended up living at Hebron Trust on and off from age 15 through to age 19. Social Welfare was involved in placing me at Hebron Trust and supervising me while I was there.

Over the next three or four years, Brother McGrath sexually assaulted me hundreds of times – mostly in the monastery sleeping quarters, but also in other places. He would do it whenever he could, at least every fortnight. He was totally opportunistic.

During these sexual assaults, Brother McGrath was demanding. He made me perform oral sex on him, and sometimes ordered me to have penetrative sex with him. He nearly always anally raped me during these assaults, standing on the bed behind me.

Most of the time, Brother McGrath put a scarf in my mouth and taped my mouth shut with duct tape before raping me, so I wouldn't make any noise. He also handcuffed me to the bed and blindfolded me. After I was bound, gagged and trussed up, he became violent, sometimes choking me. I often thought I was going to die.

Before the first rape, and before many of the other ones, Brother McGrath put some sort of drug in my drink, which made me dizzy. He also gave me a lot of alcohol (beer, Jack Daniels and Coke) and pills, like Rivotril, as a bribe to get me to do what he wanted and to lower my inhibitions, or as a reward afterwards.

Brother McGrath told me not to tell anybody about the abuse. I was too scared of him to tell anyone, I thought he might kill me if I tried. Even if I told, who would believe a street kid? We were considered scum by the police. I don't think the other street kids would have believed me either.

I was supposedly receiving drug and alcohol counselling from Brother McGrath, but he was actually giving me drugs and alcohol on a regular basis, in order to abuse me.

Brother McGrath presented himself as my advocate, mentor, counsellor and support person. He was my 'responsible adult' that handled communications and clothing grants from DSW social workers and communications from my appointed lawyer. He attended Family Group Conferences with me and encouraged the court to remand me in his custody to carry out community work. He was widely respected in the community, and this made me feel more alone because nobody would believe me if I tried to report the abuse to anyone.

I was trapped, totally dependent on Brother McGrath for accommodation, food and support. I had nowhere else to go and no one to turn to.

The abuse from Brother McGrath only stopped when I built up the courage to stand up to him by throwing a glass at his head in front of the other street kids, telling him to leave me alone and never touch me again.

In late 1992 or early 1993, when I was about 19 or 20, I reported the abuse. Because I spoke up, an investigation was carried out, and other Hebron residents came forward and went to the police about him abusing them.

Brother McGrath was eventually arrested and in December 1993, he pleaded guilty to abusing Hebron residents in 1991, as well as two former Marylands School students that had come forward as part of the investigation.

I have really vivid, horrible flashbacks to the abuse most days. Even though I try not to, I have to think about it. It's like I am reliving the rapes all over again, every day. I hear voices sometimes too, which is really upsetting. My sleep used to be terrible too, because I always had nightmares about all the abuse. It has destroyed me and scarred me for life. It makes me sick. I use sleeping pills now.

I'm always anxious, on edge, paranoid and jumpy and have PTSD. I can't handle being touched, which makes me have problems socialising and impacts how I have intimate relationships with women.

I joined Black Power while I was in prison and became a patched member, for about 15 years. I've been in and out of prison since 1992, mostly for short periods due to violent offending. When I am not in prison, I mostly live on the streets or with the gang. I don't really have anyone in the community to support me. Both my parents are deceased, and I don't have anything to do with my siblings. The abuse made me constantly angry, so I pushed people away.

I avoid all the food that I was groomed with too – things like KFC, fish & chips, chippies and chocolate.

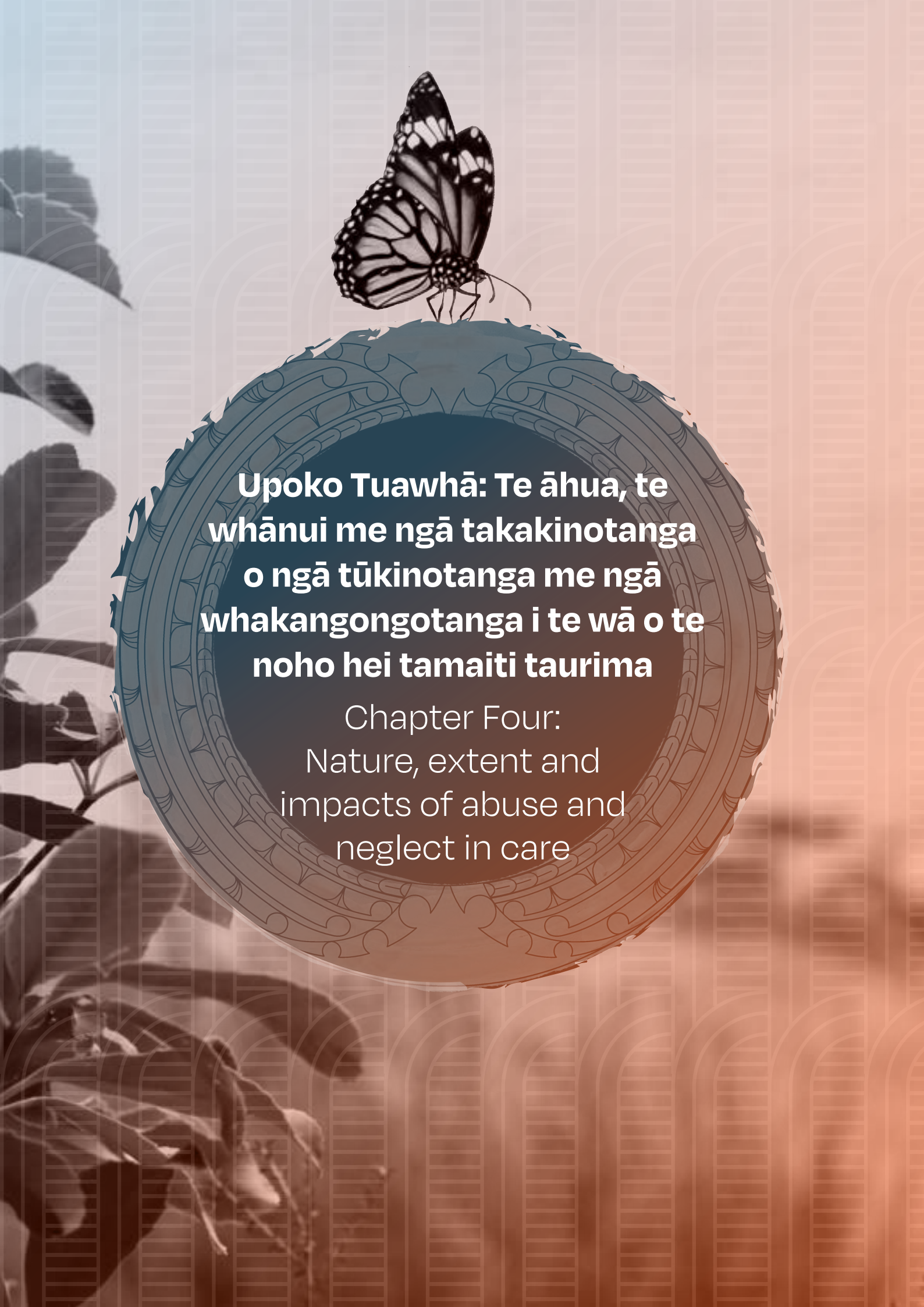
I suffer from low self-esteem and depression. I have self-harmed and I have attempted suicide a number of times, mostly by overdosing.

I have difficulty with reading and writing. I never received a good education and I find it hard to hold down a job. I have qualifications in painting and decorating, and I've had some work as a musician in some pub bands. I'm not good with money and I find it hard to cope in the community.

I have been trying to give up alcohol and cannabis. When I drink, I get mean and wild, because I think about the abuse I suffered. I have had times where I have also abused harder drugs, like heroin, just because I am around people who do it.

I want to make this statement so that I can get it all out in the open. I hope that telling my story will help someone, and that it will set me free as it is still affecting me to this day.

I had some settlement money and a face-to-face apology from the Order. But nothing can replace what happened to me. It should've been Brother McGrath apologising to me – the damage was already done.



Upoko Tuawhā: Te āhua, te whānui me ngā takakinotanga o ngā tūkinotanga me ngā whakangongotanga i te wā o te noho hei tamaiti taurima

Chapter Four: Nature, extent and impacts of abuse and neglect in care

"Brother Bernard told me that having erections was normal, but then told me that it meant I had the devil in me. Brother Bernard told me that I needed to be clean. He also told me that I was special and that he wanted to help me ... He went away and came back with a bowl of water. I remember I had an erection at this stage. Brother Bernard explained that the water was blessed. He said he would help me be clean and stay clean. Brother Bernard then went on to tell me that stuff has to come out of me. He helped me to masturbate. I am very clear that this was the first time I had ever masturbated, and it was the first time I had an orgasm on my own."

- Mr EU

Upoko Tuawhā: Te āhua, te whānui me ngā takakinotanga o ngā tūkinotanga me ngā whakangongotanga i te wā o te noho hei tamaiti taurima
Chapter Four: Nature, extent and impacts of abuse and neglect in care

Whakatakinga
Introduction

1. Many of the tamariki and rangatahi, at Marylands and Hebron Trust suffered sexual abuse, physical abuse, psychological maltreatment and neglect at the hands of the brothers and other boys. Survivors described how the brothers at Marylands used physical abuse and violence against them. On many occasions, we heard that survivors were physically and sexually abused at the same time. We also heard from some survivors who say they were sexually and physically abused while at the orphanage.

2. The unrestricted access to children and young people meant the abuse and neglect was pervasive and unrelenting for many survivors.

3. The sexual abuse suffered by those in the care of the Order is inconceivable. Many survivors were abused by multiple perpetrators, some were forced to sexually abuse other boys, in ways that were often sadistic or ritualistic in nature, and were frequently coupled with violence, spiritual abuse and manipulation. They lived in constant fear.

4. The boys who resided at Marylands were deprived of basic needs including nutrition, hygiene and clothing. There was clear educational neglect at Marylands and some describe being denied an education altogether. This had a profound effect on the later lives of almost all survivors.

5. Young people at Hebron Trust expected shelter, safety and support. Instead, many survivors were supplied with drugs and alcohol and were repeatedly sexually and physically abused.

6. Some disabled children and young people were targeted, and some were segregated and placed in isolated environments during their time in care at Marylands.

7. Māori survivors faced racist abuse, were punished, constantly humiliated and were denied access to their cultural needs. We also heard from survivors from St Joseph's Orphanage who suffered abuse by the brothers of the Order. We set out their experiences in this report.

8. Of all brothers in ministry within the Order who were in Aotearoa New Zealand, more than half (57 percent) have had allegations of abuse made against them.

9. Survivors' lives have been irreparably damaged, and the impacts of abuse and neglect have, in many cases, extended beyond survivors, to whānau, their support networks and the wider community. Survivors and other witnesses have told us of a number of people who suffered abuse and neglect while in the care of the Order, who have later taken their own lives.

Ngā tūkinotanga kāore i whāwhākia me ngā taero i aukatingia atu ai te whāwhākitanga o ngā tūkinotanga
Unreported abuse and barriers stopping abuse being disclosed or reported

10. The Inquiry does not have evidence from all the boys placed at Marylands. Some are no longer alive, some did not engage with the Inquiry and some do not communicate verbally. In some cases it was not possible to find a way for them to safely share their experiences. As a result, we do not know the full extent of the abuse and neglect the boys suffered at Marylands.

11. We will never know the full extent of Brother McGrath's abuse of young people at Hebron Trust. This is because many young people were not formally placed or referred there and the unstructured way in which Hebron was run. We know 28 people reported abuse in Hebron Trust's care to the Order. However, due to the type of institution Hebron Trust was, its work and how it was run, along with a lack of records for placements, the number of young people who passed through Hebron Trust is probably even higher than the number of children who were placed at Marylands. Many of the young people abused at Hebron Trust were homeless, some were in the criminal justice system and some had substance abuse issues. These factors often lead to a general lack of credibility with authorities and are a known barrier to reporting abuse and neglect. Therefore, the number of victims of abuse at Hebron Trust may be much higher than the figures reported to us.

"I was six when I was sent to Marylands, the youngest boy there. On my first day, someone had defecated in the gym and one of the brothers accused me of doing it. He physically rubbed my face in the faeces. All the other boys laughed at me."

- Steven Long

Ngā wheako o ngā purapura ora mō te tūkinotanga me te whakangongo i te kura o Marylands
Survivors' experiences of abuse and neglect at Marylands School

Te roanga, te whānui me te tōaitia o ngā hara taitōkai
Sexual abuse widespread, repeated and prolonged

12. Sexual abuse was widespread at Marylands from the outset. When it opened in November 1955 there were just 10 students[249] and five brothers – Brother Thaddeus (William Lebler), Brother Raphael (Thomas Dillon), Hugh Doherty, Celsus Griffin and Brother Berchmans (Martin Moynahan).[250] Six of those 10 initial students have formally reported abuse at the school. All five of those original brothers have been accused of abuse on students within the first year of opening, and allegations include daily assaults on some boys.[251]

13. Survivors from the first group of students say that the abuse started almost as soon as they arrived. Mr DA said:

"When I was 11, which would have been in 1955, I was moved from St Josephs to Marylands, which was run by the Hospitaller Brothers of the Order of St John of God. It was a school for boys and all of the pupils boarded. We were looked after by brothers from the St John of God Order.

Not long after I arrived at the school I started being sexually abused by Brother Thaddeus (also known as Lebler)...

This abuse happened to me right up until the time I was 16 in 1960."[252]

14. The immediate start of sexual abuse by multiple brothers makes it likely that some of them had already been abusing those in the Order's care in Australia and took that established culture of abuse to Christchurch.[253] The culture of sexual abuse was entrenched at Marylands and continued throughout the three decades the Order ran the school.

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249 Marylands Students Admissions Register, CTH0010185, pp 1–2.

250 Schedule of Christchurch Community Appointments 1955-1984, the Hospitaller Order of St John of God, CTH0012240 (undated).

251 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 80.

252 Witness statement of Mr DA, WITN0417001 (Royal Commission of Inquiry into Abuse in Care, 26 November 2020), paras 24–25, 39.

253 Brother Raphael's (Thomas Dillon) earliest complaint relates to sexual offending between 1948-1950 in Australia. See also Te Rōpū Tautoko Briefing Paper 5, CTH0015243, para 50.

15. Boys being sexually abused by brothers, began to abuse other boys, multiplying the number of victims. Knowledge of this was widespread among Marylands students. One survivor, James Tasker, said he was aware from the outset that a "huge amount" of sexual behaviour occurred between the brothers and the boys and between the older and younger boys.[254] Another survivor, Mr DG, said Brother McGrath and Brother Moloney "normalised" such sexual abuse, and he "became involved in similar sexual activity with other boys". He said:

"The brothers would make us boys perform sexual acts on each other. This included sexual fondling and oral sex ... At the time I thought that this must be exactly what boarding school was like, because it was so common and normal at Marylands. Looking back at it now, I realise that this isn't normal behaviour... sexual indecencies between the boys were common and this behaviour occurred even when the defendants were not present. It seemed 'normal' and I was often involved in this type of behaviour."[255]

16. Another survivor said:

"[Brother Lebler] told one boy that he would get in trouble if he disclosed the abuse because Brother Lebler had made the boy have sex with a younger boy, so the boy was 'like him' now – that is, an abuser. Brother Lebler also told the boy that the sexual abuse was fine in God's eyes, and that everyone else at Marylands was doing it anyway."[256]

17. Frequently, abuse took place without any attempt at secrecy and sometimes deliberately took place in plain view of others. One survivor said boys were also sexually abused in front of all the other boys as punishment:

"I can remember standing with all the other boys outside, watching another boy be forced to strip naked. Then a brother pushed him onto the ground and masturbated him. He also put the boy's penis in his mouth and gave him oral sex. I saw this happen to other boys on other occasions too."[257]

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[254] Witness statement of James Tasker, WITN0675001, para 38.

[255] Witness statement of Mr DG, WITN0503001 (Royal Commission of Inquiry into Abuse in Care, 18 May 2021), paras 41, 42, 48.

[256] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 81.

[257] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 143.

18. Many survivors told us about public sexual abuse in the school's television room. Edward Marriott said Brother Ambrose would put him on his knee when he was young because he apparently "screamed too much" while others were watching television:

"I remember always having a sore back afterwards because Brother Ambrose would hold me on his lap in his arms, playing 'Horsey' and I could feel the hardness of his erect penis behind my back. I was about six or seven years old [when] this was happening. Others were around when this was happening."[258]

19. A boy known to have been abused by one brother would become 'easier prey' for another brother. Mr IR told us how Brother Delaney sexually abused him several times, and on one such occasion another brother entered the room. The second brother subsequently used this knowledge as a pretext for abuse:

"Brother Delaney took me to a spare room in the hospital, saying that he wanted to speak with me … I cannot remember what it was about. He fondled my penis over my trousers then placed his hand inside and masturbated me. He then made me do the same to him. This went on for about half an hour. I was scared that if I did not comply, he would punish me. I did not know how because he had diverse ways of punishing boys. He could either punch me or take some privileges from me. He told me not to tell anybody, and I was too scared to tell anybody. He asked if I liked it and I told him I did not, but [I] did as he told me to. This happened on two further occasions in the same room.

On the last occasion, Brother Delaney was doing to me. I was told to leave the room which I did. The following day, Brother [IU] stopped me in the hospital and took me to the same room and asked what had happened between myself and Brother Delaney. I was too scared to tell him. Brother [IU] then placed his hand down my trousers and masturbated me. He asked if this was same as what Brother Delaney had done, and I told him it was. He said that he would deal with it. I heard no more after that."[259]

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[258] Witness statement of Edward Marriott, WITN0442001 (Royal Commission of Inquiry into Abuse in Care, 24 May 2021), para 4.36

[259] Witness statement of Mr IR, WITN0547001, paras 32–34.

Tūkino ā-whakapono
Religious Abuse

20. Brothers would use religious language or commit abuse as part of religious activities. A survivor told police that two days after his arrival, he was taken to the church and forced to masturbate brothers. He said they "pulled out a Bible and told me this is what God means by love."[260] He said he found the experience utterly frightening, and there was more such abuse to come, mostly inside the church. A week later, Brother McGrath took him into the chapel and made him lie on his back on top of the marble altar: "He started rubbing me and rubbing himself and pulled his pants down and sodomised me. The pain was terrible. I felt like I was being ripped to pieces. I was bleeding."[261]

21. One survivor described how the brothers would say such things as "God wants you to do this – if you're a good little boy, you'll do as God tells you" or "if you be a good little boy, you'll get to heaven."[262] Sometimes, brothers told their victims the sexual assaults were acceptable to God or even thanked God during the assaults.[263] One survivor said the brothers would describe the sexual abuse as a form of spiritual cleansing:

> *"Brother Bernard told me that having erections was normal, but then told me that it meant I had the devil in me. Brother Bernard told me that I needed to be clean. He also told me that I was special and that he wanted to help me … He went away and came back with a bowl of water. I remember I had an erection at this stage. Brother Bernard explained that the water was blessed. He said he would help me be clean and stay clean. Brother Bernard then went on to tell me that stuff has to come out of me. He helped me to masturbate. I am very clear that this was the first time I had ever masturbated, and it was the first time I had an orgasm on my own."*[264]

22. Another survivor of the orphanage, Mr IY, was told the sexual abuse he suffered would cleanse him. He said a brother told him he was "bad, evil and full of demons" before sexually abusing him: "His penis was erect and he ejaculated on me – which I did not understand at the time. He told me the semen was the seed of God to cast the demons from me."[265]

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[260] A witness statement from the Order of St John of God internal redress interview, NZP0014505 (NZ Police, 19 July 2002), p 1.

[261] A witness statement from the Order of St John of God internal redress interview, NZP0014505 (NZ Police, 19 July 2002), p 1.

[262] Witness statement of Darryl Smith, WITN0840001, para 54.

[263] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 118.

[264] Witness statement of Mr EU, WITN0709001, paras 8–10.

[265] Witness statement of Mr IY, WITN1023001, para 4.13.

Te whenumitanga o te hara taitōkai me te tūkino ā-tinana
Combined sexual and physical abuse

23. Survivors described physical abuse and violence occurring at the hands of the brothers at Marylands and on many occasions, survivors experienced combined physical and sexual abuse. One survivor recalls a particularly traumatic experience:

"McGrath walked over to me next with his robe still open and rubbed his penis in my face. I was trying to pull away, but he told me to stay there. He grabbed me by the head and tried to force his penis into my mouth. He picked up the bat and started swinging it at my face when I pulled away. He hit me so hard that it made my nose bleed. It was all very frightening."[266]

Tūkinotanga hinengaro – he wāhi matawhawhati, he wāhi whakamataku te kura
Psychological abuse – the school was a terrifying and unpredictable place

24. Amid so much physical violence and sexual abuse, life at the school was terrifying and unpredictable, especially since the boys had no means of escape. Young boys talked about ending their lives. Cruelty and fear permeated the air. One survivor told us how a brother made him kill a litter of puppies – an incident that has stayed with him for the rest of his life:

"One of the Brothers made me gas puppies in a barrel [after] [o]ne of the dogs had puppies. I had to put the puppies in an old tin rubbish bin. The brother put the hose in and I had to sit on the lid while the puppies died. Then I had to take the bin down to the dump. It made me feel really bad."[267]

25. Many who were abused also had their needs neglected. Neglect includes the failure to provide, the failure to meet standards and the failure to meet needs. Although there were few complaints or reports of stand-alone neglect, many of those who suffered physical, psychological and sexual abuse at Marylands also had their needs neglected.

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[266] Witness statement of Mr HZ, WITN0324015, para 32.
[267] Witness statement of Mr CB, WITN0813001, para 4.41.

"[Brother Lebler] told one boy that he would get in trouble if he disclosed the abuse because Brother Lebler had made the boy have sex with a younger boy, so the boy was 'like him' now – that is, an abuser. Brother Lebler also told the boy that the sexual abuse was fine in God's eyes, and that everyone else at Marylands was doing it anyway."

- Cooper Legal discussing a Marylands survivor

He iti ngā taunaki mō ngā mahi akoako
Little evidence of any schooling

26. The law in Aotearoa New Zealand required that children be sent to school and receive an education. The age requirements changed over the relevant time period, but was usually between the ages of six and 14 to 16 years.[268] There was clear neglect of educational needs at Marylands.

27. We have received little evidence about the schooling provided by the Order. The Order told the Inquiry that school records were left at the school when the State took over from the Order. The evidence from available records and survivors is that the school failed profoundly in its core task: to educate the boys sent there.[269]

28. Instead, there was a focus on training for low-skilled occupations. Some children at Marylands were put to work in the laundry, kitchen and on the land and were not in class at all.

29. Few of the brothers responsible for educating the boys had formal teaching qualifications, or experience in teaching students with learning disabilities. In 1981, the brothers employed a qualified teacher to assess admissions to identify deficiencies in boys' learning and help classroom teachers with remediation programmes.[270] However, the level of teaching was still poor in 1984 when the State took over the school.

Te whakangongo i ngā matea ā-tinana, ā-hauora
Neglect of physical and health needs

30. Neglect of the children's general health was pervasive. One boy developed dysentery and had constant diarrhoea. He was locked outside the school both as punishment and so he would not defecate inside.[271]

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[268] Nancy Swarbrick, 'Primary and secondary education – Education from the 1920s to 2000s', Te Ara – the Encyclopedia of New Zealand, www.TeAra.govt.nz/en/primary-and-secondary-education/page-3 (accessed 31 March 2023).

[269] 1984 Annual Report for Hogben School, by B D Bridges, Principal MOE0002851 (1984), p 2, 4, 9.

[270] Ministry of Education submission in response to the Royal Commission of Inquiry's Notice to Produce No. 202: Schedule 2, MOE0002844, p 5.

[271] Witness statement of Dr Michelle Mulvihill, WITN0771001 (Royal Commission of Inquiry into Abuse in Care, 15 September 2021), para 130.

31. Mr DO's sister described what it was like when her brother came home in the holidays:

"Every school holidays he had to go to the dentist because his teeth were just totally neglected, and that's an example; they were just revolting. And even though we packed toothbrushes along with toothpaste there was obviously no care for dental hygiene … and the dentist said, "I don't know what they're doing there but there's something … he's not got good oral hygiene habits." And he got trench mouth, which is just like from the trenches from the First World War, that's how bad it is.

It was just horrible … his personal hygiene … he'd go to the toilet and he'd empty his bowels he always seemed to have problems with it when he came home initially, and then he didn't understand about using toilet paper. He didn't understand about washing his hands. He'd … smear his hands on the towels and we tried really hard to address that with him.[272]

Prior to him going to Marylands, he was just one of the … family, and he just did what we did, maybe a bit slower, but he went to the toilet like we did and ate his meals like we did."[273]

Te Toihara me ngā wheako o ngā tama hauā
Discrimination and disabled boys' experiences

32. Marylands was established for boys with learning disabilities, although, in reality, it took in boys with a wide variety of needs, whether disabled or not, and eventually also took in boys with high support needs. We have received no information to suggest that there were any disabled brothers at an operational or governance level. Disabled boys were treated with no more care than that given to other boys, as little as that was. The Order kept no records in any form that would identify the type of disability and range of disabilities the boys had. We heard from only a small number of Marylands survivors who have a disability. The Inquiry acknowledges the trauma likely to have been experienced by many at Marylands whose experiences are not, and will probably never, be known.

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[272] Transcript of evidence of Ms DN from the Marylands School public hearing, TRN0000411 (Royal Commission of Inquiry into Abuse in Care, 9 February 2022), p 86–87 pp 84–85.

[273] Transcript of evidence of Ms DN from the Marylands School public hearing, TRN0000411, p 86 pp 85.

33. Mr CB, a Marylands survivor described himself as having an intellectual disability, neurofibromatosis, and Barrett's disease. He was sent to Marylands at age 10 because he could not read or write. He said he was in class for only three days. The brothers never tried to understand why he couldn't read and write or help him to do so. Instead, he said, he was put to work in the kitchen in order to save the money. He described a regular day at Marylands:

"I had to get out of bed to go to the kitchen to do the breakfast (porridge) for the boys, then cook bacon and eggs for the brothers and the hospital, in the oven with the big gas cookers. Then take the trolley over for breakfast then bring it back. Same with the lunch, take the trolley over there and bring it back. I was there washing all the dishes, pots and pans, mopping the floors, cleaning the fridges out."[274]

34. Mr DO was also put to work in the kitchen. Mr DO's sister told us he had no formally diagnosed disability. Their parents, placing great weight on a good education for all of their children, sent him to Marylands in the expectation he would be educated there. He was not. His parents withdrew him from Marylands when they learned he was not receiving any education there. They made the discovery in an unusual way – they were browsing through a publication produced by the IHC when they saw a photo of their son working in the school's laundry.[275]

Te Kaikiri i roto i ngā whakahaere me te whakahahani i te ahurea Iwi Taketake
Institutional racism and denigration of indigenous culture

35. The Order consisted only of white males. There is some evidence of racism within the Order. When the Order was exiting Marylands in 1984, it expressed strong opposition to Department of Education officials over the suggestion the school would be given a Māori name. The Order's December 1983 letter stated:

"In no way does our school identify with Maoritanga. We have only five Maori boys in the school. My belief is that many people will associate a maori named school such as ours, with backward deprived and delinquent maori children. If this occurs the repercussions may be irrevocable(sic)."[276]

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[274] Witness statement of Mr CB, WITN0813001, para 4.24.

[275] Witness statement of Ms DN, WITN0870001, para 2.98.

[276] Letter from Pt L Dieudonne to Mr C P Brice Assistant Secretary of Schools & Development, Department of Education, MOE0002850 (7 December 1983), p 1–2.

36. The brothers were not educated about te ao Māori, or about the cultural needs of any other groups.

37. Adam Powell talked specifically about cultural neglect and how as a Māori, the lost opportunities to learn about his whakapapa:

"I was never taught anything about my Māori background at school. I think if I was taught more about my Māori whakapapa and te reo it would have helped me cope more and made me more stable at Marylands. It would have been a positive thing."[277]

38. There were discriminatory and negative attitudes toward Māori students, reflecting the widespread discrimination and racism in society.

39. Māori students at Marylands experienced cultural abuse as well as other types of abuse.

"One Māori man stands out in my mind. He told us a devastating story of being one of the few Māori children at Marylands. As such he was made to dress in grass skirts and perform 'dances' in front of the brothers, with no underwear on beneath the grass dress he was given to wear. He was aged about nine or 10 years of age at that time. He was made to 'act like a Māori', display poi balls, and entertain the brothers with Māori songs. After the performance those brothers present would routinely engage in group sex with this boy. As a man this victim wept deeply as he told his story. I remember the deep sense of shame that he held on to."[278]

40. Several survivors also described how some of the abuse they suffered at Marylands was racially targeted. Survivor Darryl Smith shared how he witnessed Māori boys being called 'niggers' as well as one being forced to scrub a toilet on his hands and knees because he was Māori.[279]

41. Māori survivor Mr HZ was at Marylands for four years in the 1970s, after spending time in Lake Alice. Not long after he was discharged from Marylands at age 14 (in 1977) he returned to Lake Alice and then Kimberley. He described the label given to him by social welfare as 'mentally retarded".[280]

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[277] Witness Statement of Adam Powell, WITN0627001, para 54.

[278] Witness statement of Dr Michelle Mulvihill, WITN0771001, paras 125–126.

[279] Witness Statement of Darryl Smith, WITN0840001 (Royal Commission of Inquiry into Abuse in Care, 13 September 2021) para 74.

[280] Transcript of evidence of Mr HZ from the Marylands School public hearing, TRN0000411 (Royal Commission of Inquiry into Abuse in Care, 9 February 2021), p 61 pp 59.

42. He told the Inquiry about the racism he experienced at Marylands:

"There was only three Māoris(sic) in the whole school, I was fighting a lot of Pākehā people because I was a native because I was a different colour and they were picking on me and I'd fight back."[281]

43. Mr HZ told us his about his memory, as an 11 year old, of Brother McGrath taking him to the hospital morgue and being shown a tūpāpaku, dead body, as a way of threatening Mr HZ to keep quiet:

"When he took me down there, I thought he was going to kill me, because he was grabbing me roughly and pulling me by my hair, and we had to go up the stairs and down the stairs into the morgue room, and Brother McGrath said, 'You're going to end up there'."[282]

44. Others from Marylands were aware of abuse by the brothers in a morgue. Two of the lay teachers that Brother Burke spoke to in January 2002 told him that things happened in the Christchurch hospital morgue, with three boys and brothers. There was a corpse in the morgue at the time.[283]

45. Mr HZ also gave evidence of being abused by Brother McGrath and Brother Moloney together. Mr HZ was made to watch the two brothers naked in Brother McGrath's room and then they tried to make Mr HZ perform oral sex on them. Brother McGrath threatened Mr HZ with a baseball bat, including pointing it at Mr HZ's head.[284] On another occasion, Brother McGrath whacked the baseball bat over Mr HZ's head when Mr HZ would not hurry up and take his pants off so that Brother Moloney, "could put his thing in my bum".[285]

46. The existence of a culture of racist abuse at Marylands is supported by photographic evidence from the late 1950s gathered during the police investigation, where about 10 Marylands residents are pictured acting in a stage show with their faces painted in what is known as 'blackface', with the handwritten annotation 'Nigger Minstrels'.[286]

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[281] Transcript of evidence Mr HZ, TRN0000411, p 43 pp 41.
[282] Transcript of evidence of Mr HZ, TRN0000411, p 46 pp 44.
[283] Brother Peter Burke, notes of meeting, St John of God redress process, CTH0015310, (24 January 2002) paras 6–7.
[284] Transcript of evidence of Mr HZ, TRN0000411, p 45–47 pp 43–45.
285 Transcript of evidence of Mr HZ, TRN0000411, p 42 pp 40.
[286] NZ Police Investigation: Operation Authority, Photo Book 6, NZP0012784, p 6.

"One Māori man stands out in my mind. He told us a devastating story of being one of the few Māori children at Marylands. As such he was made to dress in grass skirts and perform 'dances' in front of the brothers, with no underwear on beneath the grass dress he was given to wear. He was aged about nine or 10 years of age at that time. He was made to 'act like a Māori', display poi balls, and entertain the brothers with Māori songs. After the performance those brothers present would routinely engage in group sex with this boy. As a man this victim wept deeply as he told his story. I remember the deep sense of shame that he held on to."

- Dr Michelle Mulvihill

Ngā matenga i te Kura o Marylands
Deaths at Marylands School

47. According to the school's attendance register, six boys died while at the school or shortly after leaving it.[287] These children were aged between nine and 14.

48. Some survivors described incidents that ended in suspicious circumstances, such as: "a number of boys ... who died as a result of the beatings [and] as far as I know they were covered up. The boys were there one day given a severe beating by the brothers and then they disappeared."[288]

49. One survivor, Mr AL, describes seeing an incident relating to a disabled child:

"The boys at Marylands were of various levels of intellect and included some Down syndrome children. There was one disabled boy younger than me and we all looked after him because he had trouble understanding things ... I saw Brother Thaddeus rush at that boy. We were standing on the porch that was by the concrete quadrangle area. I couldn't see exactly what had happened, but Brother Thaddeus had said something to that boy and he hadn't responded. Next thing I knew, Brother Thaddeus had decked that boy on the concrete porch. He either had fallen or been pushed over but he hit his head on a concrete step. He was knocked unconscious and was bleeding heavily from his head. Brother Thaddeus picked him up and took him to the medical room. Soon after, the school's doctor, Doctor Cameron, arrived.

We never saw nor heard about that boy again after that incident. The last time I saw that boy he was laid out and he wasn't moving. That's always something that's worried me – wondering what happened to that boy. The way he was hit I just knew he wouldn't make it. He was helpless."[289]

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[287] Marylands Students Admissions Register, CTH0010185, p 1–2.

[288] Internal file of Brother Bernard McGrath, summary of complainant statements which show alleged ritual type abuse/distorted memory narratives, CTH0013381 (Order of St John of God, no date) p 20.

[289] Witness statement of Mr AL, WITN0623001, paras 6.8, 6.9.

50. One former student described a boy who was deliberately pushed into the school pool by a brother who became annoyed after the boy began playing up and ignored his direction to stop. The former student said the boy was sitting on the pool's edge when the brother went up to him and pushed him in. The boy was fully clothed and sank to the bottom of the pool, the former student together with other boys, asked if they could help him, but were told he was fine and to leave the pool area. The next thing that this former student knew was there was going to be a funeral for the boy, and so presumed he had drowned.[290]

51. Information about the deaths is scarce. The Ministry of Justice has no electronic database for coronial matters before 1979. Inquest records before that date are stored at Archives New Zealand, and the Coroner's Office has not located any relevant records there. Coronial records for deaths for which no inquest occurred have generally been destroyed. In the absence of such records, we are unable to investigate allegations that boys died from abuse at Marylands or that their deaths were covered up.

52. Detective Superintendent Peter Read confirmed that the police "have not located any records of deaths of children while at Marylands" and do not "hold any information about the circumstances of these deaths." As to whether there had been a police investigation into deaths of children at Marylands, Detective Superintendent Peter Read stated:

> *"I am not aware of any Police criminal investigations into deaths of any children while at Marylands. Police would have been involved in attending any sudden deaths at Marylands on behalf of the Coroner but I have not had access to those files."*[291]

53. Our Final Report will discuss further the death of individuals while in care.

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290 Internal file of Brother Bernard McGrath, CTH0013381, p 21-22

291 Witness statement of Detective Superintendent Peter Read, NZP0042570, 5 August 2021, para 8.2.

We never saw nor heard about that boy again after that incident. The last time I saw that boy he was laid out and he wasn't moving. That's always something that's worried me – wondering what happened to that boy. The way he was hit I just knew he wouldn't make it. He was helpless.

– Mr AL

Ngā tūkinotanga i te whare whakapani o Hato Hōhepa Abuse at St Joseph's Orphanage

54. Children at the orphanage were aged anywhere between birth and 11 years. Survivors have told us that brothers from the Order, as well as other adults who spent time at the orphanage such as priests and trainee priests, gardeners and a handyman sexually abused boys living there. Survivors from the orphanage were often confused about the identity of their abusers and have spoken about being abused by either a brother or a priest, or another adult male at the orphanage. Due to the survivors' young ages, they did not know their abusers' names.[292]

55. In relation to the frequency of visits to the orphanage by other men, including priests, the Sisters of Nazareth told the Inquiry that a priest would visit the orphanage every day of the week, except Saturday. On Sunday a priest would "visit the orphanage to say Sunday Mass for the children and sisters at the orphanage", and "to say Mass for the sisters early each weekday". The priest would then stay to have breakfast in the parlour. It was also recorded that a trainee priest, a member of the Redemptorist congregation (not yet ordained), "ran a Scouts group out of the gymnasium at Nazareth House and occasionally took some boys from the orphanage out on day trips".[293]

56. One survivor told us a nun took him down a hallway and left him with a brother or priest as punishment. The brother or priest fondled his genitals.[294] He said the nuns would threaten to take him next door to Marylands where this brother or priest lived and worked if they misbehaved.[295] Another survivor from the orphanage said his older brother warned him that you didn't want to be sent across to St John of God (Marylands), and he lived in fear of going over the Heathcote River.[296]

57. Mr IY, who lived at the orphanage, recalls that the brothers "took care of the discipline".[297] He once had his feet beaten for threatening to run away from the orphanage. The pain from the resulting welts was so intense he had to walk on the sides of his feet for several weeks.[298] He was also sexually abused by brothers from Marylands.[299]

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292 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 258.

293 Witness Statement of Sister Mary Monaghan, WITN1801001 (Royal Commission of Inquiry into Abuse in Care, 5 May 2023) paras 22–24.

294 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 267.

295 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 267.

296 A Private Session transcript, CRM0014147, p 7.

297 Witness statement of Mr IY, WITN1023001, para 4.11.

298 Witness statement of Mr IY, WITN1023001, para 4.10.

299 Witness statement of Mr IY, WITN1023001, paras 4.12–4.15.

58. Another survivor of the orphanage said nuns took him from his bed and he was forced, by brothers or priests, to carry out sexual acts with them. His lawyers, Cooper Legal, told us their client said he was 10 years old when Brothers McGrath and Moloney repeatedly sexually assaulted him. They raped him and forced him to engage in mutual oral sex. This happened in an old wooden house in the suburb of Wigram. They also said several nuns took him from his bed on "a number of occasions" and led him down a gravel path to the chapel at Marylands where other boys from the orphanage and several brothers or priests were present. The pews had been removed, and candles and incense were burning. He recalled being given red wine and injected with a sedative in a sick bay next door before being forced to carry out sexual acts on the other boys, nuns, and brothers or priests.[300]

59. Despite the evidence we have received from survivors that detail the interaction between the brothers at Marylands and the orphanage, including the Sisters' reliance on the brothers to discipline children living at the orphanage, Sister Mary Monaghan, Regional Superior of the Congregation of the Sisters of Nazareth, said that "the sisters I spoke to have no recollection of any of the Order's members ever visiting the orphanage, nor having any ongoing contact with the residents at the orphanage", with the exception of one occasion where the brothers offered to help the Sisters with a fire that broke out.[301] In responding to the experiences of abuse suffered by children in the care of the orphanage, Sister Mary told the Inquiry that there are "only a few living sisters who had roles at the orphanage – most sisters who would have been present at the orphanage during the relevant period are deceased."[302]

60. Another resident said a man who seemed to be in a position of authority at the orphanage sexually abused him. He was taken to the man's office several times where the man fondled his genitals, gave him sweets and told him "not to tell anyone what had happened".[303] In about 2006 or 2007, he read a newspaper article about a brother facing charges of sexual abuse and believed he recognised the photograph as the brother who abused him.[304] The Order refused to consider his claim for redress on the basis that the abuse took place in the orphanage, not at Marylands.[305]

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300 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, paras 262–263.
301 Witness Statement of Sister Mary Monaghan, WITN1801001 (2023) para 20.
302 Witness Statement of Sister Mary Monaghan, WITN1801001 (2023) para 17.
303 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 268.
304 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 268.
305 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 268.

61. Another survivor said a brother or priest made him and several other boys strip naked on a stage at the orphanage. The brother or priest fondled the boys' genitals until a nun interrupted them. He said he was raped twice while walking by the Heathcote River that separated the orphanage from Marylands. He did not see the man or men who raped him.[306]

62. Survivor Mr AU said two priests sexually assaulted him days after he told one of them during a confession that his stepfather had sexually abused him. He said he believed the priests targeted him once they learned he had been abused before arriving at the orphanage. He said that during confession, the priest asked whether he got an erection during the abuse and kept seeking details about exactly what happened during masturbation and penetration:

"He kept asking me to describe what happened and how it felt. I was shocked that I was being asked for such details. This seemed completely unnecessary to me, and I felt very uncomfortable with these questions. I ran out of the confession booth. I told Sister Xavier about this. She told me that that was between me and God."[307]

63. Mr AU said that two days after the confession, a nun took him to a room where he was forced to sodomise a young boy in front of two priests. Not long afterwards, he was "shipped out" of the orphanage, but not before being punished for trying to disclose the abuse.[308] Mr AU remembered drawing a picture later at another institution, of how he had been abused because he "could not talk to anyone about it. A nurse thought I was just being dirty and erupted about this. I was placed in isolation for two weeks with only a mattress."[309]

64. The Inquiry heard from other orphanage survivors who had similar experiences. Mr IY described being taken to a storeroom, where he was raped by a priest.[310] Another survivor recalled being told by the sisters that it was time for him to 'take confession': "We would go to the church and be sitting there, and next thing the father's hand was down your pants. This happened in a little room near the chapel."[311]

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306 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 270.

307 Witness statement of Mr AU, WITN0376001 (Royal Commission of Inquiry into Abuse in Care, 7 October 2021), paras 2.7–2.11.

308 Witness statement of Mr AU, WITN0376001, paras 2.7–2.11.

309 Witness statement of Mr AU, WITN0376001, para 3.10

310 Witness statement of Mr IY, WITN1023001, paras 4.13–4.18.

311 Witness statement of Mr JB, WITN1171001, para 76.

Whakarāpopotonga o ngā tūkinotanga i te whare whakapani
Summary of abuse at the orphanage

65. Several survivors describe being physically and sexually abused by the brothers from the Order. Some survivors told us they were also physically abused by the nuns at the orphanage.

66. Several survivors recall being abused by other people at the orphanage such as priests or trainee priests from the Diocese of Christchurch, however because they were young children and the abusers' names were not known, the abusers cannot be definitively identified.

67. Survivors told us that, at times, they believed some nuns at the orphanage were aware of the physical and/or sexual abuse of the children. Survivors said that, at times, they were taken to Marylands as a punishment.

Ngā tūkinotanga i te Tarati o Hebron
Abuse at Hebron Trust

68. The abuse at Hebron Trust was pervasive and inescapable for many residents and for those that passed through the properties related to Hebron Trust seeking shelter and food. Brother McGrath, the director of Hebron Trust and referred to by the other staff as 'the boss',[312] led the organisation in an operational sense, and was largely unsupervised by the Order and any State agency. This contributed to Brother McGrath's ability to have unfettered access to vulnerable and marginalised young people who were often struggling with substance abuse issues, homelessness and isolation from their whānau and wider community.

69. Cooper Legal, who acted for many Hebron Trust survivors, spoke to the severe nature of the abuse at Hebron Trust in comparison to their other work over the years. They said, "we have dealt with literally thousands of victims", and that the "brutality and severity" of Brother McGrath's abuse towards Hebron Trust victims was "at the top of the scale in terms of its nature, severity and long-term damage".[313]

Ngā hara taitōkai i te marae
Sexual abuse at a marae

70. Brother McGrath sexually abused rangatahi at Hebron Trust's various premises, as well as at a marae.[314] The marae permitted street kids to sleep there, and Brother

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312 Te Rōpū Tautoko Marylands Briefing Paper 2: Summary of events relating to the Hebron Trust, MSC0007268 (23 July 2021), para 27.

313 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, paras 299–302.

314 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 457.

McGrath would take them there at the end of the day, usually after nightfall.[315] One survivor, Mr HF, said he was abused more than 30 or 40 times at the marae.[316] Brother McGrath would force him to have intercourse with another male 'street kid', and he would also make the boys perform sexual acts on each other.[317] Brother McGrath would tie up Mr HF and make him watch while he raped the other boy.[318]

I whakaponotia ō Parata McGrath rongo
Brother McGrath had a trusted reputation

71. Brother McGrath had a trusted reputation in the Christchurch community. By grooming Hebron Trust residents, Brother McGrath created a trustworthy image with his victims and within the Christchurch community. Some survivors described their first impressions of Brother McGrath as friendly, supportive and 'almost fatherly'.[319] Andrew Downs, who worked as a programme co-ordinator at Hebron Trust said that the high trust in Brother McGrath created barriers to disclosing the abuse:

"He was so well connected and so admired. Even my family doctor of 26 years told me that Brother Bernard would never do that kind of stuff. The community loved him."[320]

72. Cooper Legal also stated:

"The trust and respect given to Brother McGrath as a religious youth worker and a father figure to troubled young people was a key tool in his abuse being able to occur, as well as a particular image he would invoke as part of his grooming. As noted below, he would befriend boys by putting hands on their shoulders and calling them 'son'."[321]

73. Brother McGrath was also known to supply drugs and alcohol in an attempt to form special relationships with Hebron Trust residents. Many survivors describe being under the influence of alcohol and substances supplied by Brother McGrath when the sexual abuse took place.[322]

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315 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 457.
316 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 457.
317 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 458.
318 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 458.
319 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 487.
320 Witness statement of Andrew Downs, WITN0766001 (Royal Commission of Inquiry into Abuse in Care, 27 Septmber 2021) para 63.
321 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 286.
322 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 476.

74. Survivor Mr GJ was nine or 10 years old when a friend took him to visit a Hebron Trust property, saying that Brother McGrath would give them money and drugs. Brother McGrath supplied both Mr GJ and his friend with petrol and glue and then sexually abused them: "Because I was high on petrol, I did not really take in what was happening to me." He recalled his friend receiving money after this first incident:

"We left after this. I didn't get any money, but my friend did. I think this might have been for bringing me there, but I'm not sure".[323]

75. Mr GJ's friend took his own life several years after Brother McGrath was arrested for allegations of sexual abuse.

Te Whakarekereke me te taitōkai
Violence and fear

76. Like many Marylands survivors who were abused by Brother McGrath, we heard from other survivors about the religious elements and how the fear of God was used during the sexual abuse.

77. We have heard from many survivors that Brother McGrath would often use physical force and extreme violence before and during the abuse. Some survivors feared for their lives during the attacks. Threats of violence were also used to instil fear to prevent the victim from disclosing the abuse.

78. We also heard that Brother McGrath used restraints and locked rooms to hold his victims, some of whom were violently assaulted. Cooper Legal said some clients were "forced to participate in sexual acts with other children, including family members, or were made to watch while Brother McGrath assaulted their family members."[324]

79. Cooper Legal also acted for a Māori survivor Justin Taia, who was repeatedly and violently sexually abused by McGrath. Cooper Legal said:

"It is important to emphasise that the rapes from Brother McGrath had an added violent, ritualistic and fetishistic component. During most of the rapes, Brother McGrath would put a scarf in Justin's mouth and tape his mouth with duct tape, presumably to prevent him from making a sound. Brother McGrath also had handcuffs and would handcuff Justin to the bed and blindfold him. He was very rough towards Justin once he was bound, gagged and 'trussed up'."[325]

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[323] Witness statement of Mr GJ, WITN0731001 (Royal Commission of Abuse in Care, 5 January 2021), para 36.

[324] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 300.

[325] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 356.

80. Another victim said Brother McGrath threatened to throw him into a river and drown or stab him if he told anyone about the abuse.[326] One survivor placed with Hebron Trust described intense feelings of humiliation after Brother McGrath raped him and left him in his room after the assault. He lay there "bleeding and crying, with faeces everywhere.[327] Some of the other boys came home later. I remember that one of the boys opened my room and laughed at me. I was still laying there, crying, because it hurt so much."[328]

Te hara taitōkai hei whakawhiunga
Sexual abuse as punishment

81. Survivors spoke of abuse, including sexual abuse, being used, at times, as punishment at Marylands and Hebron Trust. Steven Long, a Marylands survivor, told us of one such instance:

"The brothers had a bach on Waikuku Beach, north of Christchurch. I remember Brother McGrath taking us kids there … [w]hile we were walking on the beach [one of the boys] started getting grizzly and hanging back. Brother McGrath went to get him, put his hands over his throat and swung him around, then he threw him out into the surf. I just looked at Brother McGrath, and he looked at me in an 'I dare you' sort of way. [This kid] went under water and I ran out and hauled him up. He was choking and terrified. I pulled him back onto the beach. Brother McGrath then kicked me, picked me up and pulled me over to the sand dunes. Then he made me masturbate him in front of everybody, which I think was his way of reducing the mana of what had just happened."[329]

82. Some survivors from the orphanage who said they were sent to Marylands to be disciplined and spoke of the nuns leaving them with brothers or priests, as punishment for doing something. Children who were taken by the nuns to be disciplined by the brothers would often be sexually abused.[330]

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326 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 456.
327 Witness statement of Mr EU, WITN0709001, paras 41–42.
328 Witness statement of Mr EU, WITN0709001, para 43.
329 Witness statement of Steven Long, WITN0744001, para 39.
330 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 267.

83. Survivors at Hebron also suffered sexual abuse as a form of punishment, Mr EU said:

"I remember being drunk. I also remember putting my bike against the wall and smashing a window … soon after, Brother Bernard's van came up the driveway … I knew I was in trouble … Brother Bernard came into my room, yelling and screaming at me … [h]e told me I had to be punished. Brother Bernard told me to pull my pants down and bend over … and started smacking me with something like a cane … he then raped me. I remember that I was screaming and crying. I also remember that my faeces were everywhere. I was covered in faeces. Brother Bernard started shouting at me, calling me a filthy, filthy boy. He also kept hitting me."[331]

84. Sexual assault was frequently used as another form of punishment. There is evidence to suggest it was often conducted in front of other boys to serve as a warning,[332] in the same way as strapping or caning.[333]

Te whānui o ngā tūkinotanga
Extent of abuse

85. The Inquiry sought comprehensive information from Catholic Church authorities in Aotearoa New Zealand about all reports of abuse made to it from 1950 to 30 June 2021, including sexual, physical and psychological abuse, as well as neglect, failed responses to reports of abuse and facilitation of abuse.Reports of abuse included:

    a. Formal reports made by the alleged victim themselves or an authorised representative.

    b. Informal reports made by the individual alleging abuse.

    c. Allegations of abuse made by a family member, friend, or aquaintance of the alleged victim, whether or not the survivor was aware that this allegation was being made to the Catholic entity.

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[331] Witness statement of Mr EU, WITN0709001, paras 38–41.

[332] Witness statement of Dr Michelle Mulvihill, WITN0771001, para 121. Michelle Mulvihill during her survivor interviews heard: "…horrific recounts of child sexual abuse, of being savagely beaten by St John of God Brothers and of being publicly humiliated, being forced to perform sexual acts in front of other children and the St John of God Brothers."

[333] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 117.

d. Allegations of abuse where the person making the allegation did not ask for any form of redress or asked that the matter not be taken any further.[334] The information provided by the Catholic Church authorities included recorded reports of abuse by the Order's brothers.

86. Te Rōpū Tautoko, on behalf of the Order, also provided briefing papers summarising the nature and extent of reports of abuse at both Marylands[335] and Hebron Trust.[336]

87. We note that there are limitations to this data. It cannot give a complete picture as it only includes reported abuse. As we have found in earlier reports[337] much abuse goes unreported, because of the significant barriers to survivors reporting abuse while in the care of faith-based institutions, including the Catholic Church. The level of disability of some of the boys at Marylands is likely to be a further barrier to reporting.

88. At times, when a report was made, it may not have been recorded. For example, some reports of abuse discussed in the evidence of Brother Timothy Graham and documents are not included in the raw data or the briefing papers provided to the Inquiry.[338] Similarly, Mr HZ's disclosure of sexual abuse to Brother Garchow is not included in the Order's summary of what it knew and when, because it only came to the attention of the Order prior to the Marylands hearing.[339]

89. For all these reasons we treat the data summarised in the next section as indicative, likely revealing only the tip of the iceberg of the number of tamariki and rangatahi at Marylands and Hebron Trust who were actually abused or the true amount of abuse and neglect that was inflicted on them.

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[334] Te Rōpū Tautoko Marylands Briefing Paper no. 5, Preliminary report on Information Gathering Project data, EXT0015730, 12 February 2021, para 4.

[335] Te Rōpū Tautoko Marylands Briefing Paper 4, Summary of the nature and extent of reports of abuse at Marylands, as amended on 17 December 2021, CTH0015242.

[336] Te Rōpū Tautoko Marylands Briefing Paper 6, CTH0020744.

[337] We wrote about the specific barriers that survivors of abuse in faith-based institutions experienced in our redress report, He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui, section 2.4.

[338] Relating to the 1976–1977 anonymous reporting of allegations of abuse by Brother Bernard McGrath and Rodger Moloney, those letters were destroyed by Brother Brian O'Donnelll. See also: Transcript of teleconference between MAG, Brother Brian O'Donnell and JXC, CTH0018408 (19 December 2016), p 6.

[339] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, p 3. The order summarises the dates when the Order first knew of a New Zealand based report of abuse against Br Garchow (and other Brothers who ministered in Aotearoa).

Te nui o ngā whāwhākitanga e ai ki ngā raraunga i whoatungia e te Rangapū
Number of allegations according to data provided by Order

90. From the data we received, we can say that of the 537 boys who attended Marylands, more than one in five (118) reported abuse while in the school's care. There were 241 reports of abuse at the school, the orphanage and the Order's bach at Waikuku beach. Of the 118 individuals, more than half (64) reported abuse by more than one brother.

91. In addition, 28 individuals reported abuse across Hebron Trust settings. This included abuse at Waipuna, Pampuri and Farm Cottage, as well as other locations such as Brother McGrath's house. All but one reported Brother McGrath abusing them. The other individual reported abuse by a lay member of staff. Of this group, 23 were 18 years old or younger.

92. Across all Christchurch settings, the Order says it had records of reports of abuse from 146 individuals, reporting 269 complaints of abuse.

Ngā momo whāwhāki
Types of allegations

93. We have grouped the types of abuse reported to the Order into 10 categories and set them out in the following table , Type of abuse at Marylands School and Hebron Trust. The total of 361 is 66 more than the 269 incidents of abuse reported above, because some incidents involved several forms of abuse.

94. From 1955 to 1983, 37 brothers ministered in the Christchurch community (the period during which the Order operated Marylands).

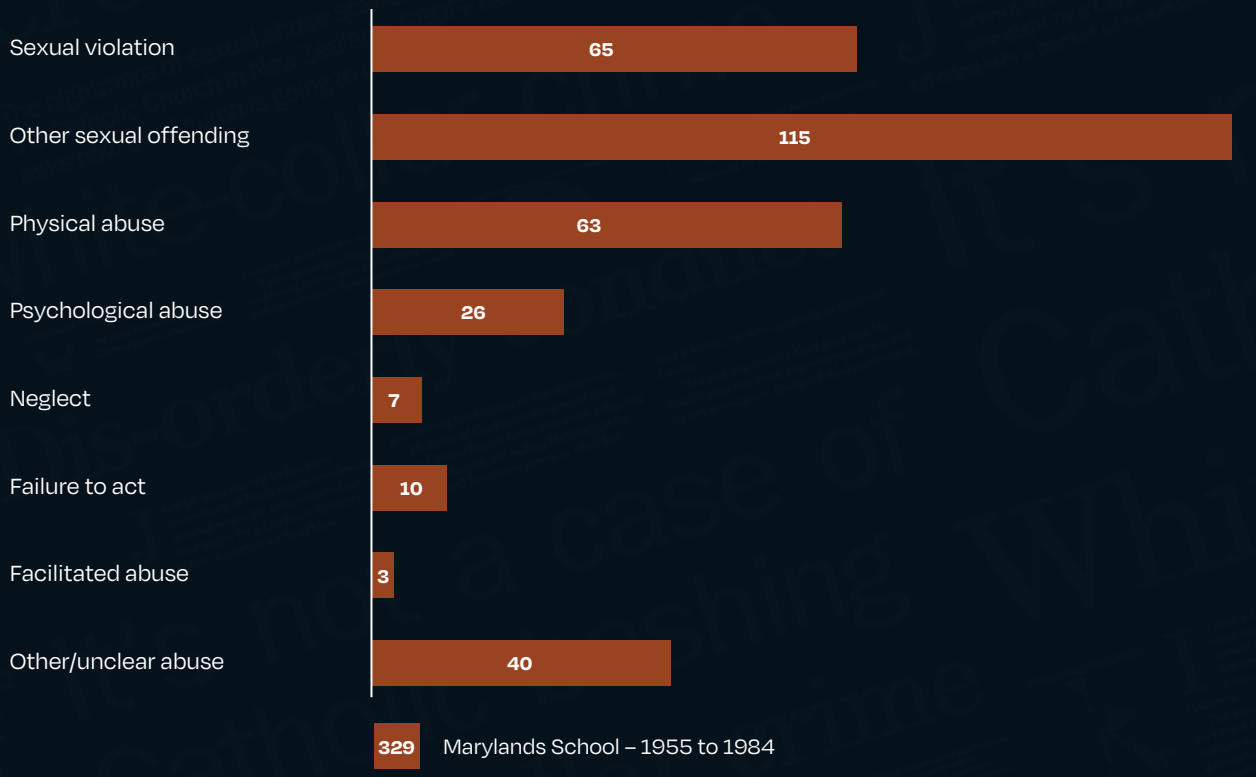
95. Of those 37 brothers, 21 (57 per cent) have had allegations of abuse made against them covering all of the forms of abuse within the Inquiry's Terms of Reference.

96. More than half (51 per cent) of the 37 brothers had allegations of child sexual abuse made against them. This proportion is much higher than that reported by the Australian Royal Commission, which found 30 per cent of brothers in Australia had a claim of child sexual abuse against them in the 35-year period 1980 to 2015.

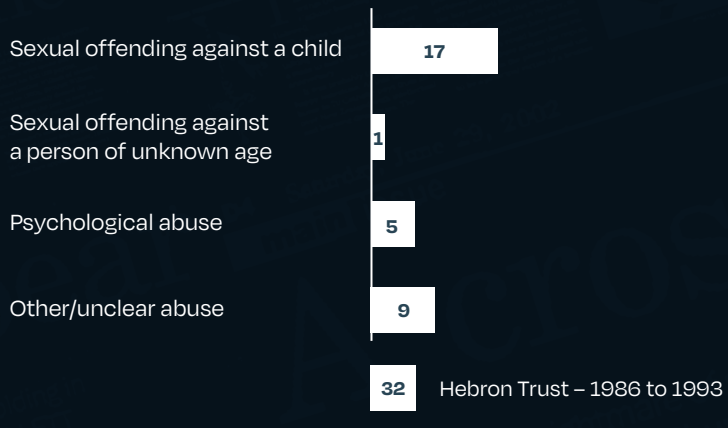
97. From 1950 to 2020, 42 St John of God brothers were present in Aotearoa New Zealand. Of those brothers, 21 have had allegations of abuse made against them and one has had an allegation of failing to respond to a report of abuse.

Type of abuse at Marylands School and Hebron Trust

Type of abuse at Marylands School



Type of abuse at Hebron Trust



- Different categories of abuse were used in the Marylands School and Hebron Trust papers provided by the Order of St John of God. These tables reflect all categories specified. Definitions of some terms used by the Order can be found at page 363 of this report.
- The allegations of abuse reported by the Order do not include those who were in care at the orphanage.
- Includes the abuse that occurred at the Order's bach at Waikuku beach.

98. Throughout the 28 years Marylands was operating, on average there would be seven brothers at a time appointed to the Christchurch community, five of whom would be alleged perpetrators of abuse, and four of these five would be alleged perpetrators of sexual abuse. On average, abusers would stay longer at Marylands than those who were not alleged to have abused. The average length of ministry in Christchurch from 1955 to 1983 for those brothers who had reports of abuse made against them was 6.14 years. In contrast, the length of stay of those brothers not alleged to have abused was much shorter, spending an average of 2.77 years in ministry in Christchurch. The reason for this difference is unclear.

99. In the expectation that there will be public interest in comparing the Aotearoa New Zealand position with the findings of the Australian Royal Commission, the Inquiry has used the same weighted average approach, as was used by the Australian Royal Commission in relation to reports of sexual abuse for the 29-year period 1955 to 1983, the years of operation of Marylands School. Although the official takeover of Marylands by the State was in 1984, there were no reports of abuse in 1984.

100. For the period 1955 to 1983, the proportion of the total number of brothers in ministry in Aotearoa New Zealand who were alleged perpetrators of sexual abuse, taking into account the number of years they ministered in that community, was 71 per cent.[340]

101. This is significantly higher than the Australian Royal Commission's weighted average calculation of 40 per cent of the Order's brothers in Australia being subject to such reports[341], although we note that these numbers were taken over a longer period from 1950 to 2020.

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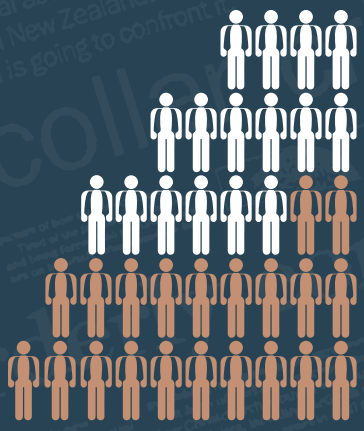
[340] The Inquiry has used a weighted average approach. A weighted average approach ensures that a statistically consistent approach is taken to individuals who were in ministry for only a few years, and individuals who were in ministry for decades. To obtain the weighted average of 71 percent, we took the total number of years of ministry of St John of God brothers in the Christchurch community between 1955 and 1983 who were alleged perpetrators which was 116.82 and divided this by the total number of years for all St John of God brothers who ministered in the Christchurch community between 1955 and 1983 which was 165.42. Our calculation formula being 116.82/165.42 = 0.71 which is 71 percent.

[341] Australian Royal Commission into Institutional Responses to Child Sexual Abuse, Research Report – Analysis of complaints of child sexual abuse made with respect to Catholic Church Institutions in Australia, June 2017, page 18.

Percentage of St John of God brothers accused of abuse



56.8%

Allegations of abuse

Of the 37 St John of God brothers ministering in the Christchurch community during the operation of Marylands School from 1955 to 1984, 21 (57%) had allegations of abuse made against them.

Comparisons between Aotearoa New Zealand and Australia

51%

51% of St John of God brothers in Aotearoa New Zealand had a claim of child sexual abuse against them from 1955 to 1984.

30%

30% of St John of God brothers in Australia had a claim of child sexual abuse against them from 1980 to 2015.

Tokowaru ngā parata i tūkino i te tokomaha o ngā tamariki me ngā rangatahi
Eight brothers abused multiple tamariki and rangatahi

102. Of the 21 brothers subject to reports of abuse, eight abused multiple tamariki and rangatahi. The scale of the alleged abuse perpetrated by Brother McGrath was immense, with 74 reports of abuse or 28 per cent of all complaints.

103. The eight brother perpetrators from the Order with the highest number of known reports are:

- Bernard McGrath – 74 reports of abuse (27.5 per cent of all reports of abuse within Aotearoa New Zealand).
- Rodger Moloney (now deceased) – 32 reports of abuse.
- William Lebler (Brother Thaddeus, now deceased) – 22 reports of abuse.
- Leonard Lock (Brother Sebastian, now deceased) – 17 reports of abuse.
- Gerald Griffin (Brother Celsus, now deceased) – 11 reports of abuse.
- Raymond Garchow (now deceased) – eight reports of abuse.
- Thomas Dillon (Brother Raphael, now deceased) – seven reports of abuse.
- Brother DQ left the Order and whose identity is subject to a court suppression order – seven reports of abuse.

Te whakaaweawe o ngā takakinotanga me ngā whakangongonga
The impacts of abuse and neglect

104. All survivors of abuse and neglect from Marylands, Hebron Trust and the orphanage, who the Inquiry heard from, have suffered significant and life-long impacts to many facets of who they are, their relationships, their potential and the life they lead.

105. Māori survivors also described being harmed by the racist culture which resulted in further harmful impacts on them. These impacts included racial discrimination while at Marylands and Hebron Trust and disbelief when disclosing abuse. Many Māori survivors that the Inquiry heard from also came from homes or whānau that were on the margins of social life. Their iwi and hapū were not empowered to intervene. We heard that these Māori survivors were vulnerable and unable to stop or prevent abuse of their children.

106. Disabled survivors suffered additional trauma from what we now recognise as ableist abuse. Where survivors weren't able to verbalise their trauma, inadequate supports were in place to assist them, such as supported decision-making or the use of augmented alternative communication.

Te tūkino me te whakamataku, te noho i te pāweratanga
Cruelty and terror, lives lived in fear

107. The abuse by brothers of the Order has had a profound and devastating impact on many aspects of survivors' lives. Often the effects were immediately apparent, but even if they were not, they would materialise by adulthood and many survivors spoke of the grief for what they could have been. As survivor Mr AB put it, the abuse "changed the direction of my adult life. Even to this day I feel like a runaway train without a driver on board".[342]

108. When Brother McGrath was sentenced in April 2006[343] for sexually abusing pupils at Marylands school between 1974 and 1977, the judge accepted the evidence of beatings and violence and noted McGrath's admission that "the pupils were ruled by fear".[344]

109. The judge noted in sentencing that the victims concerned, without exception, had been sent to Marylands because they suffered some form of disability "be it mental, physical or in terms of social adjustment".[345] The judge further noted that some victims had been bribed or threatened if they were to disclose the offending. The elements of violence, bribery and threats were also acknowledged.

110. The evidence the Inquiry has received from survivors is entirely consistent with the court's observations about abuse at both Marylands and Hebron Trust. The emotional abuse was pervasive and linked with physical and sexual abuse. Children and young people were terrorised. Life at Marylands was unpredictable and there was no means of escape. Some young people at Hebron Trust, including those who were not residents but had associations with Hebron, would often run away after being abused and end up in dangerous situations, as that seemed like a better option than remaining in Brother McGrath's care.[346] Survivors talked of wanting to disappear, indicating they had considered suicide.

111. There was a prevailing and pervasive culture of violence and control within the Order. So many lives were lived in intense fear. The level of cruelty, psychological harm and violence appears to have compounded the already extreme trauma caused by the extreme level of sexual abuse.

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342 Witness statement of Mr AB, WITN0420001, para 97.

343 R v McGrath, CTH0008341, CRI-2004-009-002462 [2006] (unreported).

344 R v McGrath, CTH0008341 [2006], para 5.

345 R v McGrath, CTH0008341 [2006], para 7.

346 Witness statement of Mr CA, WITN0721001 (Royal Commission of Inquiry into Abuse in Care, 17 September 2021), para 95. See also: Witness statement of Mr ES, WITN0734001 (Royal Commission of Inquiry into Abuse in Care, 15 October 2021), para 15; Witness statement of Mr EU, WITN0709001 (Royal Commission of Inquiry into Abuse in Care, 12 October 2021), pp 9–10.

"We came out of Marylands School like idiots. I could not even go into a shop when I left Marylands. I was so frightened I would wait until all the customers left and then go and ask the cashier how much to give over. We just did not know what money was."

- Mr AL

Ngā pānga whawhati tata o te takakino me te whakangongo
The immediate effects of the abuse and neglect

112. Survivors recall the immediate physical impacts of the abuse and neglect suffered such as rectal injuries, bleeding and bruising while family members and other adults noticed sudden changes to boys' behaviour.

113. A lay caregiver at the school, Ms AM, told us one reason lay staff thought the boys at Marylands were being abused was their noticeable mood and behaviour changes: "Some became violent and were emotionally uncontrollable."[347]

114. Such behavioural changes had an impact on families when the children went home for the holidays. A Marylands survivor, Mr IH, said he struggled to cope when he returned for the holidays. He said he was "a bit rough" with his sisters at times and often threatened them and other family members. He said his mother once became so concerned about his behaviour that "she put jam jars outside my bedroom door so that she would be able to hear me if I left my bedroom at night".[348]

115. Ms DN, the sister of Mr DO, said that her brother "would rip our books up and break our toys". She and the rest of the family would count down the days until her brother left to return to Marylands: "We were too young to understand why he behaved that way. I know some of my siblings still feel guilty for thinking that way."[349]

116. Many boys began to exhibit overt or inappropriate sexual behaviour because such behaviour was normal at Marylands.

117. Mr EU, a Hebron Trust survivor, described the crippling pain that he suffered after being raped and that the pain continued for many years.

118. Alan Nixon recalls being sore for a month after an episode in McGrath's bedroom. He found blood in his underwear too, however, he didn't understand where it had come from.[350]

"Soon after the rape, I started to have serious pains in my anus, which would almost buckle me over. I remember that I continued to have these pains until I was in my 20s."[351]

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[347] Witness statement of Ms AM, WITN0587001, para 2.24.
[348] Witness statement of Mr IH, WITN0671001, para 57.
[349] Witness statement of Ms DN, WITN0870001, para 3.33.
[350] Witness Statement of Alan Nixon, WITN0716001, para 47.
[351] Witness statement of Mr EU, WITN0709001, para 51.

119. Mr DG described how the sexual abuse by Brother Moloney intensified and occurred almost daily:

"Oral and anal sex were eventually a daily occurrence. My bottom would often be sore because of the abuse and on multiple occasions I recall it being purple in colour."[352]

120. A caregiver at Marylands recalls having to commonly treat the children for anal and rectal injuries:

"It was quite common for us to have to apply cream medication for anal fissures (splits and infection in the anal passage) to some boys. I believe that the boys' medical records would have recorded this and may assist in identifying those children. The treatment for the anal fissures involved inserting tubes of ointment into the anuses of the boys affected."[353]

121. A number of survivors have developed illnesses and injuries and believe these are as an indirect effect of the sexual abuse, including liver damage from alcohol addiction[354], high blood presure causing haemorrhages[355], and anxiety-related stomach pains.[356] For example, Mr DO was diagnosed with rectal cancer and at the time his sister, Ms DN, gave evidence at the Marylands School hearing, Mr DO was receiving palliative care. Mr DO's doctors said they believed a sexually transmitted disease during childhood (herpes) was the likely cause. Ms DN told us that life for Mr DO was miserable and that he suffered from faecal incontinence almost continuously.[357] In September of 2022, Mr DO passed away from the cancer.

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[352] Witness statement of Mr DG, WITN0503001, para 33.

[353] Witness statement of Ms AM, WITN0587001, para 2.21.

[354] Witness statement of Mr IH , WITN0671001 (Royal Commission of Inquiry into Abuse in Care, 15 October 2020), para 89.

[355] Witness statement of Trevor McDonald, WITN0399001 (Royal Commission of Inquiry into Abuse in Care, 22 April 2021) para 5.19.

[356] Witness statement of Mr DL, WITN0561001 (Royal Commission of Inquiry into Abuse in Care, 20 May 2021) para 69.

[357] Witness statement of Ms DN, WITN0870001, paras 3.21, 3.24–3.26.

Kua whāwhākia e ngā tini purapura ora ngā mate hinengaro kua pā ki a rātou
Many survivors report they suffer with mental health conditions

122. Survivors have shared how the devastating effects of being abused and neglected have led to shame, guilt, low self-esteem and self-worth, an overwhelming sense of loss, emptiness, sadness and extreme grief at what had happened to them.

123. Many survivors have either been diagnosed with mental health conditions such as depression, anxiety, PTSD or experience symptoms but have not been formally diagnosed. One survivor said he had suffered from "intense episodes of depression" and would spend a lot of time crying about what happened to him at Marylands. He said he had spent most of his life blaming himself for what happened at the school and thinking it was somehow his fault: "I feel intensely ashamed by the sexual abuse, and I often feel intensely alone as well. I don't believe that people like me, and I often feel distressed about my life."[358]

124. A Hebron Trust survivor said he returned to Aotearoa New Zealand and "ended up back in Christchurch, which was my biggest fear after leaving there in my late teens. I have been on the sickness benefit, and diagnosed with PTSD, anxiety, and depression."[359]

125. Cooper Legal represented a Māori Hebron Trust survivor Mr HF, who suffered many forms of abuse. They summarise how the impact of abuse manifested in so many areas of Mr HF's life:

"He has been diagnosed with Complex PTSD, depression, anxiety, and drug abuse issues as a direct result of the abuse he suffered at the hands of Brother McGrath.

Mr HF abused drugs and alcohol, particularly alcohol, to suppress the memories of the abuse.

Even when engaging with us, Mr HF still carried a great sense of shame about being a victim of sexual abuse. This was particularly troublesome for him as a long-term prison inmate.

Mr HF has problems with relationships and intimacy. He has had ongoing physical health issues because of the damage to his anus."[360]

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358 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 181.
359 Witness statement of Mr EU, WITN0709001, para 67.
360 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, paras 460–463.

Ko tōna hautoru ka tahuri ki te tarukino, ki te waipiro rānei hei whakamauru i ngā takakinotanga
About three quarters turned to drugs or alcohol to cope with the abuse

126. Approximately three-quarters of survivors we spoke to had turned to drugs or alcohol as a way of coping with their abuse. James Tasker said he began drinking heavily at Marylands:

> *"It shut me off from what was going on. It helped me take no notice of what was going on with the brothers. It shut it out, relaxed me, calmed me. Without it I was always fired up, I never let my back down. Even now, I'm always watching."*[361]

127. One Hebron Trust survivor, Mr HE, sniffed glue as a coping mechanism. On one occasion after being raped, he "went straight to Linwood Park. He lost his bowels and then tried to clean himself in the toilet. After that, Mr HE started sniffing solvents more heavily, trying to forget about the rape".[362]

128. Typically, boys who began taking drugs and alcohol as a way of erasing memories of their abuse developed a habit that continued into their adult lives. One survivor, Mr FB, who was sent to Marylands and Lake Alice Hospital, told us how he began drinking at 15 and before long had a daily drinking habit. He was determined never to be sober enough to remember what happened to him. Mr FB now has pancreatitis from his alcohol abuse:

> *"I remained an alcoholic for the next 30 years of my life (except for periods of imprisonment) and this cost me in terms of money, relationships, employment and my health."*[363]

129. Cooper Legal said one client, Mr HP, abused drugs and alcohol, and went on to commit offences while under the influence of drugs. It said his behaviour deteriorated rapidly after he was raped repeatedly by Brother McGrath while at Hebron Trust: "His use of methamphetamine, cannabis and pills escalated. He resorted to drinking alcohol daily. Mr HP suffered from nightmares frequently and resorted to violence, frequently assaulting those he came across."[364]

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[361] Witness statement of James Tasker, WITN0675001, para 84.
[362] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 442.
[363] Witness statement of Mr FB, WITN0843001 (Royal Commission of Inquiry into Abuse in Care, 20 September 2021), para 5.1.3.
[364] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 656.

"I wouldn't be in the state I am today and most of my life, because as you get older it's killing me."

- Mr DG

130. Another Hebron Trust survivor, Mr HQ, had struggled to form any sort of relationship that was not based on drug abuse. He was addicted to drugs and alcohol, had committed violent offences and had been in prison numerous times: "He has had no meaningful relationships or friendships. He says that all his relationships have been built on a common addiction to drugs and pills."[365]

Ko ētahi ka taka ki te kiri haehaetanga me te kiri tūkinotanga
Some resorted to self-harm or self-mutilation

131. We have heard that some survivors resorted to full-body tattooing to modify their appearance to consciously make themselves unattractive:

"Mr HC tried to suppress the memories of the abuse by Brother McGrath, by using drugs and alcohol. He tattooed himself all over his body, to make himself unattractive. Mr HC resorted to violence. He described not trusting others and suffering from low self-esteem."[366]

132. Cooper Legal, which also represented Mr HD, said:

"Because of Mr HD's hatred for the Catholic Church, he has turned his whole body into a demon. Mr HD has covered his whole body in tattoos of demons' heads, all because of Brother McGrath. Mr HD still carries hatred towards Brother McGrath and will never forgive him."[367]

133. Mr CB, a disabled Marylands survivor who lived with and was supported by his mother for his entire adult life, was moved to State housing soon after she died. Mr CB felt unsafe and distressed in his new home. "I would lie in bed just stressing remembering what happened to me at Marylands." During this time, Mr CB would self-harm and tried to end his life:

"I went to Hillmorton Hospital for about three weeks for self-harming and then they sent me to Princess Margaret Hospital for respite then to Burwood Hospital."[368]

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[365] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 672.
[366] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 382.
[367] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 416.
[368] Witness statement of Mr CB, WITN0813001 (Royal Commission of Inquiry into Abuse in Care, 22 November 2021), paras 5.16, 5.18.

He nui te hunga i whakaarotia te whakamomori, ā ko ētahi i mahia atu
Many contemplated suicide, with some taking their life

134. For many survivors the struggle for hope and meaning in life is a difficult one. Many survivors told us they had contemplated suicide, some had attempted suicide and we learned that some victims did take their own life.

135. Danny Akula said that what he struggled with most was that he was coming to the later part of his life and that he had "nothing to show for it. I have no wife, no children, no house, and no career. I often wonder what's the point and why I am still here".[369]

136. Ms IO told us that her son took his own life five weeks after she tried to speak to him about the abuse at Marylands:

"I wanted to have a conversation with him about McGrath. He said 'what for?' and I said that McGrath had been interfering with boys at Marylands. I asked him – 'did he interfere with you?' And [he] told me that he did not want to talk about it."[370]

137. During the Marylands hearing in February 2022, one survivor was asked how things would be different if he hadn't been abused at Marylands:

"I wouldn't be in the state I am today and most of my life, because as you get older it's killing me."[371]

"I feel crap. I feel rubbish. I feel like my life's not worth living. I've almost committed suicide once or twice. And one day it will happen because I can see the strain that I face."[372]

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[369] Witness statement of Danny Akula, WITN0745001, para 177.

[370] Witness statement of Ms IO, WITN0558001, para 59.

[371] Transcript of evidence of of Mr DG from the Marylands School public hearing, TRN0000412 (Royal Commission of Inquiry into Abuse in Care, 10 February 2022), p 32, pp 30.

[372] Transcript of evidence of of Mr DG, TRN0000412, p 32, pp 30.

Tuakiri ā-ia, ā-taera
Sexual and gender identity

138. Some survivors have told us the sexual abuse has caused them to question their sexual orientation and gender identity. Mr AQ, said he had struggled in his relationships with women: "My sexuality was a little confused, and I feel that this could have been the result of the abuse I suffered as a child at Marylands. Had I not been abused as a child, I may have ended up having straight preferences in respect of my sexuality."[373]

139. One survivor said he didn't have a partner or any children, and for a long time he wondered if he might be gay because "intimacy is such a big problem for me. I always thought that I was a dirty person and that I was to blame for the abuse."[374]

140. Another survivor told us the abuse had caused him to question both his sexual and gender identity:

"[The abuse] certainly confused me sexually. There were times when I didn't know if I was male or female. I've felt intense shame and have struggled to understand my sexuality at times, I can say that the abuse has made me feel sexually inadequate – I didn't know if I was Arthur or Martha. I had a gay relationship after my marriage ended. I also tried to have [a relationship] with a woman at the same time and neither of them worked. Figuring out my sexuality was an issue for me throughout."[375]

141. Hebron Trust survivor Hanz Freller said "[t]he abuse made me question who I was as a person, 'who am I? What am I?' I questioned my sexuality too."[376]

142. Survivor Mr JA said "[i]nitally I was confused about my sexuality after the abuse, and it took several years to understand I was heterosexual and able to have relationships with women."[377]

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[373] Witness statement of Mr AQ, WITN0882001 (Royal Commission of Inquiry into Abuse in Care, 13 October 2021), para 47.

374 Witness statement of Alan Nixon, WITN0716001, para 110.

[375] Witness statement of Mr DA, WITN0417001, paras 59–60.

[376] Witness statement of Hanz Freller, WITN0516001, (Royal Commission of Inquiry into Abuse in Care, 3 May 2021), para 7.3.

[377] Witness statement of Mr JA, WITN1317001, para 7.3.

Te ngaromanga o te whakapono me te wairuatanga
Loss of faith and spirituality

143. A common theme from most of the survivors of the Order's care who the Inquiry heard from was that the abuse and neglect had completely shattered their trust in the church and any connection with religion or spirituality.

144. Mr AU said the sexual abuse he suffered at the orphanage took away any sense of security as "[w]hatever I had left to believe in was taken. I was not wanted at home, and I was not protected by God".[378]

145. Mr IY, who also suffered sexual abuse under the guise of religious cleansing at the orphanage, said that the abuse destroyed his relationship with God and he described himself as a "soulless man" but he still searches for God in some way and that he "asks questions every now and then".[379]

146. A Marylands survivor said: "When I was a boy I used to believe in God, but after the brothers had sex with me I couldn't believe in God anymore."[380]

147. Another survivor, Mr CZ, said his wife and her parents were Catholics and when their son was due to start high school, they wanted him to go to St Bede's College, a Catholic school, and he said he couldn't let that happen.[381]

148. The betrayal of trust felt by survivors has resulted in anger and hatred towards the Catholic Church. One survivor was charged with arson after he set fire to a Catholic Church.[382] Other survivors have shared similar thoughts with the Inquiry.[383] Mr DG said:

> *"Since being at Marylands I have always felt anger about how I was treated. I will never forget Marylands until the day I die. I have driven past the site a few times on Nash Road, Halswell when heading to south Christchurch and it triggers the bad memories."*[384]

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[378] Witness statement of Mr AU, WITN0376001, para 3.1.
[379] Witness statement of Mr IY, WITN1023001, para 6.14.
[380] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 170.
[381] Private Session transcript of Mr CZ, CRM0014757 (Royal Commission on Inquiry Abuse in Care, 26 May 2021), p 28–29.
[382] Witness statement of GRO-B, NZP0016021, (NZ Police, 7 March 2003), p 2.
[383] Transcript of evidence of James Tasker from the Marylands School public hearing, TRN0000413 (Royal Commission of Inquiry into Abuse in Care, 11 February 2022), p 15 pp 13.
[384] Witness statement of Mr DG, WITN0503001, para 63.

"I was totally separated from my Māori culture. This was the source of all my sense of identity and belonging. This land is our land, and I know I belong to it; I know I am supposed to live a healthy life on my land but this is being stopped by the institutions that are not designed to understand and care for Māori children. I have suffered, and my kids have suffered because of this racist system."

- Mr HZ

Te ngaromanga o te ahurea Māori
Loss of Māori culture

149. Some Māori survivors said their separation from whānau, hapū and iwi and placement in a racist and discriminatory institution resulted in a feeling of disconnection from their culture. Mr HZ said he was totally separated from his Māori culture:

> *"I was separated totally from my Māori culture. I'm not Māori, I'm a native of this land. I don't have culture. The only sense of belonging and support I ever felt was being part of a criminal gang."*[385]

150. Māori survivor, Mr DM, described feeling disconnected from his Māori culture and whakapapa: "I am New Zealand Māori, but such is the effect of my displacement with my culture, that I do not know much about my cultural heritage." The Department of Social Welfare placed Mr DM with his grandmother after his mother died. During this time, Mr DM was sent to different boys' homes to support his grandmother with his care, before being placed at Marylands.[386]

Te korenga i āhei ki te whakapono
Inability to trust

151. Survivors the Inquiry heard from described a deep distrust of people in religious positions, people in positions of authority such as police[387], loss of trust in all men and some survivors said they struggled to trust anyone at all. One survivor said:

> *"I do not have relationships because I do not believe in them. I also have a lot of trouble trusting people. I am also anti-authority to the extent that I have no trust or faith in any government department or the courts. I believe that people are not safe, even when they are just walking in the street. There is nothing to help people when they have been hurt."*[388]

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385 Witness statement of Mr HZ, WITN0324015, para 76.

386 Witness statement of Mr DM, WITN0446001 (Royal Commission of Inquiry into Abuse in Care, 23 June 2021), para 19.

387 Witness statement of James Tasker, WITN0675001, para 81.

388 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 144.

Te pānga o ngā whakangongo ā-ako
Impact of educational neglect

152. The Inquiry heard that the failure of the Order and the State to provide even the most basic education to many boys who were at Marylands had untold consequences for their later lives. Most we heard from could find only menial, low-paying work, and some lacked the most basic life skills. One survivor, Mr AL, said he spent 10 years at Marylands but was left so ill-equipped for life that he spent, in effect, another 10 years getting on his feet. He said he was "never taught anything at Marylands" and he felt like he, along with other boys, "came out of Marylands School like idiots":

"I could not even go into a shop when I left Marylands. I was so frightened I would wait until all the customers left and then go and ask the cashier how much to give over. We just did not know what money was."[389]

153. Many said their abuse had greatly diminished their chances of finding meaningful work. Trevor McDonald said he couldn't read or write when he left Marylands. He told us:

"[E]verything I know now, I have taught myself. I can read now, but very slowly. It has affected my ability to get jobs. I've been robbed."[390]

154. Another survivor expressed great sadness at how his life had turned out after failing to get an education at Marylands: "Now I am left with jobs like the trolleys at Woolworths, or cleaning."[391]

155. Survivor Hanz Freller said he might have completed his sixth-form exams and gone on to become a physical exercise teacher if he had not been sexually abused at Hebron Trust. He said he had been at Ellesmere College and had admired the football coach and wanted to model himself on that teacher. Hanz told us "[t]he sexual abuse completely changed the course of my life."[392]

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389 Witness statement of Mr AL, WITN0623001, para 10.7.

390 Witness statement of Trevor McDonald, WITN0399001, para 4.56.

391 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 170.

392 Witness statement of Hanz Freller, WITN0516001 (Royal Commission of Inquiry into Abuse in Care, 3 May 2021), para 7.2.

156. One survivor, a qualified chef, said he lost many jobs because of his outbursts of anger.[393] Another had been unable to work because he suffered from post-traumatic stress disorder and severe sleep disturbances.[394]

157. Some survivors ended up with criminal convictions that had limited their employment prospects. Cooper Legal said one client, Mr HK, had many assault convictions, and most stemmed from outbursts of anger. He had been employed, but his criminal history meant he could not pursue his real ambition – a career in the police force.[395]

Te rawakoretanga me te kāingakoretanga
Financial hardship and homelessness

158. Some survivors found themselves living in poverty or in inadequate housing. Some were homeless. Dr Mulvihill told us how she and Brother Burke met one survivor of Marylands who lived in a shared house with other men in Invercargill. They met him in his room. She said his possessions consisted of a single bed with threadbare bedclothes, a side table, a lamp and a chair:

"I remember how freezing cold this house was. He was in very poor physical shape. We sat on the floor in his room and he was very apologetic that he could not offer us chairs. He turned on a small electric heater that he had borrowed from someone especially for our visit. He was so proud to offer this to us."[396]

159. The Order paid for one survivor, Alan Nixon, to attend a psychiatric centre in Dunedin for a period of time, but as a result Social Welfare would not approve his sickness benefit (even though the funds for treatment were not being paid to him). Therefore, he had no money for other living costs:

"I remember that some of the other patients at the Ashburn Clinic supported me financially for a bit, but I felt really bad about this. I asked to be sent back to prison, but my probation officer wouldn't do that."[397]

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393 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 312.
394 Witness statement of Mr JB, WITN1171001, para 100.
395 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 559.
396 Witness statement of Dr Michelle Mulvihill, WITN0771001, para 131.
397 Witness statement of Alan Nixon, WITN0716001, para 126.

"After the rape by Brother McGrath my life deteriorated. I pretty much left home, joined up with skinheads and started sniffing glue with them. I ended up becoming a drug addict. I did a stint in the Kingslea Secure Unit after gate-crashing a party with members of a gang. Everyone else was older than me so they were arrested and held in police custody, whereas I was admitted to Kingslea. Although I was only there once, my life continued to get worse, and my offending got more serious. I went to prison a couple of times. Drug and alcohol abuse are still a problem for me."

- Mr ES

Ngā tūkinotanga i raro i te taurimatanga ka tūhonohono ki ngā mahi taihara mō muri ake
Abuse in care linked to later criminal offending

160. We have seen a clear link from the evidence between earlier abuse and later criminal offending. Mr HO, a client of Cooper Legal, and a Hebron Trust survivor progressed from abuse to a life of crime and imprisonment:

"Mr HO describes leaving home after he was abused by Brother McGrath. He started to sniff glue and became a skinhead and a drug addict.

Mr HO started to offend. He had a brief admission to Kingslea in 1992. By that stage, he was prospecting for a gang.

From there, Mr HO progressed to prison. He has been in and out of trouble. He still has problems with drugs and alcohol."[398]

161. Adam Powell said his experiences at Marylands turned him into "an angry, bad-attitude little kid" and he "ended up going down a bad path".[399]

162. One survivor abused at Hebron Trust said it took a while for the abuse by Brother McGrath to "properly sink in", but from about the age of 14 he began to experience a lot of anger and repeatedly got into trouble with police.[400]

163. In some cases crime was a way for survivors to earn money. Mr EU, a Hebron Trust survivor, left home at either 15 or 16 but had no income and had to fend for himself. To make enough money to eat and survive, he turned to petty crime.[401] He also describes how in his mid to late-teens, he turned to prostitution to make money: "It was the police who assisted me to seek welfare assistance, which I relied on for my financial support for many years."[402]

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398 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, paras 642-644.
399 Witness statement of Adam Powell, WITN0627001, para 61.
400 Witness statement of Mr EP, WITN0727001, para 5.
401 Witness statement of Mr EU, WITN0709001, para 57.
402 Witness statement of Mr EU, WITN0709001, para 58.

164. Some survivors who were sexually abused went on to sexually abuse others.[403] One said he began sexually abusing women as a result of sexual abuse at Marylands and later Porirua Hospital: "Between 1970 and 1973, I was in court frequently for such offences."[404]

165. Another survivor went on to commit serious offending that he has told us was connected to his abuse at Marylands.[405]

Ko ētehi purapura ora i tahuri ki ngā kēnge
Some survivors turned to gangs

166. We have heard from survivors who turned to gang communities to feel a sense of belonging. Adam Powell said:

> *"I ended up on the street trying to find a family, so I joined the Mob. I would have been around sixteen years old. I stayed down the river in Hamilton under a bridge. The Mob gave me a sense of belonging and they felt like family to me. They took me under their wing and I was brought up by some of the boys in the Mob and their ladies. I learnt a lot from them, but I also did silly stuff. I eventually learned from all my mistakes but at the time, that was family to me."*[406]

167. Mr HZ also joined a gang. He became a patched member at 25, and he said it gave him a sense of belonging "as well as a sense of authority and heaps of power with the support of the gang behind me".[407]

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[403] Witness statement of Mr IX, WITN0889001, para 48. See also: Witness statement of Danny Akula, WITN0745001 (Royal Commission of Inquiry into Abuse in Care, 13 October 2021) para 83; Witness statement of Mr DG, WITN0503001 (Royal Commission of Inquiry into Abuse in Care, 18 May 2021) paras 58–60; Witness statement of Ms DN, WITN0870001 para 2.86; Witness Statement of Mr AU, WITN0376001 para 3.21.

[404] Witness statement of Danny Akula, WITN0745001, para 163.

[405] Witness statement of Mr IX WITN0889001, para 57.

[406] Witness statement of Adam Powell, WITN0627001, para 62.

[407] Witness statement of Mr HZ, WITN0324015, para 68.

Whakawhanaunga ki ngā tamariki
Relationships with tamariki

168. Survivors described how the trauma of their sexual abuse had deeply affected their relationships with their children. Some were so ill-equipped for the task of parenthood that authorities removed their children from them. Mr HZ experienced exactly that:

"I have never been given the chance to develop proper parenting skills, and because of this I have had my children taken away from me. I have never been taught about normal physical and emotional relationships with people I love." [408]

169. One survivor said he often found it uncomfortable to hug or bathe his daughter because he would have flashbacks:

"When I bathed my daughter, I was paranoid and always asked her to sit facing away from me. I had a fear of touching her and even doing small things like putting talcum powder on her after a bath. I was also worried about what my daughter would think."[409]

170. Some survivors found it difficult to leave their children in the care of others. One said he worried all the time about somebody hurting his children: "I am very protective over them and won't trust anyone else to look after them, apart from their mother."[410]

171. Another survivor said he, too, was overly protective about his children and had to know what had happened to them each day: "I certainly did not have enough trust to allow my kids to go to a Catholic boarding school. I desperately wanted to do all I could to prevent them being exposed to what I had been as a child."[411]

172. Hanz Freller said he would agonise over allowing his children to attend school camps, boy scouts, drama classes and other extracurricular activities: "I did not want them to be put in a position where there was a power imbalance and no one overseeing what was going on."[412]

173. Some survivors felt they could not trust themselves to be good parents and so chose not to have children. Cooper Legal said one Hebron Trust survivor, Mr HQ, would not have children because he had strong parents and a strong family who should have protected him, but were unable to do so.[413]

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408 Witness statement of Mr HZ, WITN0324015, para 73.
409 Witness statement of Mr AU, WITN0376001, para 3.16.
410 Witness statement of Mr EP, WITN0727001, para 57.
411 Witness statement of Mr CZ, WITN0535001, para 3.2.
412 Witness statement of Hanz Freller, WITN0516001, para 7.8.
413 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 673.

174. A survivor from the orphanage said that two of his children were in prison, and he would look at them and see younger versions of himself: "That affects me. I saw things and carried them on and now these two young boys have seen them and carried it on."[414]

Whakawhanaunga ki ngā hoa tāne/hoa wahine
Relationships with partners

175. Many survivors told us about their difficulties in forming and maintaining intimate relationships. Brent Campbell said he struggled with relationships and had tried over the years to have a girlfriend, but it didn't work.[415] Mr AU said his sexual abuse made him distrustful of people, including even his wife:

"When my wife went out with her friends, I would fear that she would abandon me. Sometimes she would come home after having been out and I had tipped the whole house upside down while she was out as I could not handle the situation. I would have been drinking heavily to deal with the stress. I was also generally suspicious of anyone who tried to help me ..."[416]

176. Many spoke about their difficulties with physical intimacy. One survivor said he had never had a girlfriend until he met his future wife because he was too shy and embarrassed:

"I thought no one would love me and that I was disgusting ... [We] have had sexual problems as I get memories of the abuse when we have sex and this makes me feel terrible. We do not have children."[417]

177. Mr EU said that he "struggled with intimacy and was rejected early on by a girl due to [his] awkwardness and discomfort with [his] body".[418]

178. Another survivor said he had only had one girlfriend, and that was many years ago. The abuse made him wary of – indeed, scared about – relationships with people: "I have not had any other sexual relationships with anyone since Marylands."[419]

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[414] Witness statement of Mr IY, WITN1023001, para 6.12.

[415] Witness statement of Brent Campbell , WITN1126001, (Royal Commission of Inquiry into Abuse in Care, 22 March 2021), para 8.8

[416] Witness statement of Mr AU, WITN0376001, para 3.15.

[417] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 170.

[418] Witness statement of Mr EU, WITN0709001 (Royal Commission of Inquiry into Abuse in Care, 12 October 2021) para 53.

[419] Witness statement of Mr DL, WITN0561001 (Royal Commission of Inquiry into Abuse in Care, 20 May 2021), para 71.

179. Another survivor said the sexual abuse had made nights an ordeal for him and his wife: "I get horrible nightmares. I toss and turn and cry and scream out in my sleep. My wife tries to cuddle me but I push her away. I wake up covered in sweat."[420]

180. A number of survivors said they had become violent towards their partners and others as a result of their abuse. One said: "I was not born a violent man. I became one because of the abuse I suffered."[421]

Whakawhanaunga ki ngā mātua
Relationships with parents

181. Some survivors blamed their parents for leaving them in the care of the Order. One Hebron Trust survivor, Mr HO, was estranged from his parents because he considered they shared some of the blame for what had happened to him.[422] Often, parents felt an overwhelming sense of guilt for sending their children to abusive institutions. One parent said Mr MB was their only son, and they still felt devastated by his disability and abuse: "I think I have overcompensated with guilt. What a waste of a life and we were part of it, we have to live with it."[423]

182. Ms DN, whose brother was sexually abused at Marylands, said her mother felt intense guilt because she did what she thought was the right thing: "She was always told by the Catholic hierarchy that she was lucky the St John of God Brothers were there to help boys with disabilities; but sadly, they did not live up to their name and have destroyed so many lives."[424]

Te tuku ihotanga o ngā pānga mai i tētehi reanga ki tētehi, me ngā āhuatanga ka mauroa
Long-lasting and intergenerational impacts

183. As a result of these impacts, survivors have experienced a lack of connection with family and whānau, iwi and hapū, lack of belonging with their communities, a lack of local friendship and a loss of social capital.

184. Survivors have described the long-lasting and devastating impacts of the abuse in care that have led to intergenerational consequences. The impacts have been found to ripple out to whānau, hapū, iwi and communities for years and generations.

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420 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 170.
421 Witness statement of Mr IY, WITN1023001, para 6.16.
422 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 648.
423 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 161.
424 Witness statement of Ms DN, WITN0870001, para 4.17.

Nga Whakakitenga: Te āhua, te whānui me ngā pānga o te takakino me te whakangongo
Findings: The nature, extent and impacts of abuse and neglect

Te āhua o ngā tūkinotanga me ngā whakakitenga whakangongo
Nature of abuse and neglect findings

185. The Royal Commission finds in relation to the nature of abuse and neglect:

a. At Marylands:

i. Extensive and extreme abuse and neglect of tamariki occurred including:

- sexual abuse by brothers
- sexual and physical abuse by boys at the school towards other boys
- physical abuse, sometimes of an extreme nature by brothers
- pervasive neglect by brothers including neglect of basic needs and cultural, medical, emotional needs, as well as the need for a loving home
- pervasive educational neglect by brothers, children's development and progression in learning was not prioritised
- emotional and psychological abuse, including witnessing violence and sexual abuse and perpetual fear
- religious abuse
- cultural abuse.

ii. Survivors experienced racism.

iii. Marylands had selection processes, policies around admissions and teachability, and standards of care for disabled children that we now understand to be reflective of ableism.

b. At Hebron Trust:

i. Extensive and extreme abuse of rangatahioccurred including:

- sexual abuse by Brother McGrath.
- physical abuse, sometimes of an extreme nature.
- emotional and psychological abuse, including witnessing violence and sexual abuse, and perpetual fear.
- religious abuse.
- cultural abuse.

ii. Survivors experienced racism.

c. At both Hebron Trust and Marylands we find:

   i. The evidence from survivors to be credible accounts of abuse and neglect occurring.

   ii. The sexual abuse that occurred at Marylands and Hebron Trust was pervasive and in many cases, severe and extreme. It caused the children and young people subjected to it, mental and physical pain and suffering. There is evidence of sexual abuse being used as punishment, as well as to intimidate.

Ngā whakakitenga: Te whānuitanga o ngā mahi tūkino me ngā whakangongotanga
Findings: The extent of abuse and neglect

186. The Royal Commission finds in relation to the extent of abuse and neglect:

a. It is likely that more disabled boys were abused at Marylands than the Inquiry has knowledge of. There are significant barriers to the disclosure and reporting of abuse by disabled survivors.

b. Based on the evidence the Inquiry has received, approximately half of the rangatahi who used Hebron Trust's services were rangatahi Māori. As set out in He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui, Māori and Pacific people face high barriers to disclosing abuse.[425] There are likely to be Māori and Pacific survivors who have never reported their abuse, neglect or both and who have not received assistance or support.

c. Even on the basis of the incomplete data, and the known barriers to disclosure and reporting, when comparing Marylands and Hebron Trust to other inquiries around the world that have investigated similar abuse, we are aware of no other circumstances or institution where the sexual abuse has been so extreme or has involved such a high proportion of perpetrators over the same extended period of time.

[425] Royal Commission of Inquiry into Abuse in Care, He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhanui (vol 1, 2021), p 102.

Ngā whakakitenga: Ngā tūkinotanga me ngā whakangongotanga i rangona
Findings: The impacts of abuse and neglect

187. The Royal Commission finds in relation to the impacts of abuse and neglect:

a. All survivors of abuse and neglect from Marylands, the Hebron Trust and St Joseph's Orphanage who the Inquiry has heard from, have experienced significant and life-long impacts to many facets of who they are, their relationships, their potential and the life they lead. These impacts include:

- physical injury, health and illness
- devastating mental health impacts, including self-harm and suicidality
- criminal offending and addiction including substance abuse
- struggles with sexual and gender identity
- loss of faith and spirituality
- financial hardship and homelessness
- lack of education, leading to further financial hardship and employment insecurity
- inability to trust and difficulties in relationships with children, partners and whānau.

b. Some Māori survivors were also harmed by targeted racial abuse and cultural neglect, which resulted in additional harmful impacts.

c. Disabled survivors experienced additional trauma from targeted abuse that we now understand to be ableist abuse. Where survivors weren't able to verbalise their trauma, inadequate supports were in place to assist them, such as supported decision-making or the use of augmented alternative communication.

d. We have received evidence to suggest that some of those tamariki and rangatahi who were abused, neglected or both at Marylands, the Hebron Trust and the orphanage have taken their own lives, or have died as an indirect result of their experiences.

"I remained an alcoholic for the next 30 years of my life (except for periods of imprisonment) and this cost me in terms of money, relationships, employment and my health."
- Mr FB

Mr DO

"They've destroyed so many lives"

-Ms DN

Ngā wheako o ngā purapura ora – Survivor experience:

Name	Anonymised in order to protect identity of Mr DO, brother of Ms DN.[426]
Age when entered care	8 years old
Age now	Deceased
Hometown	Auckland
Time in care	1965–1974
Type of care facility	Catholic school – Marylands School.
Ethnicity	Pākehā
Whānau background	One of 11 children, the only one to go into care. Parents deceased.

My brother, Mr DO, died in 2022 aged 65 after getting cancer. He was repeatedly anally raped by the brothers at Marylands School, which he attended from the age of eight through to 16.

Doctors said the tumour was a squamous cell carcinoma of the HPV virus and that it was consistent with the abuse he suffered as a child at Marylands.

The look on his face when he said, "I have cancer, don't I?" just broke my heart.

The tumour was large and wept constantly. My brother was forced to wear large nappies because of faecal incontinence – the doctors were worried that the tumour would come right out of his buttocks. He became unhappy and extremely irritable. In the words of one of my sisters, he lost his spark.

My brother was considered 'slow' or 'behind'. We never got a proper diagnosis but later learned he was born with a congenital intellectual disability. My mother wanted the best education possible for him, and the opportunity for him to go to Marylands, this so-called amazing boarding school, was the answer to our prayers.

My brother's behaviour changed significantly for the worse because of Marylands. When he came home for visits he didn't want to go back, so we wouldn't tell him when it was time to leave again. He would cry a lot, but he couldn't articulate what was wrong and why he was so distressed. We would send him off with new clothes, toiletries and so on, and he would come back to us wearing someone else's shoes, no socks, no underwear – and we would have to start all over again. It was incredibly expensive.

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[426] Witness statement of Ms DN, WIT0870001 (Royal Commission of Inquiry into Abuse in Care, 30 March 2021).

We could never have anybody over to our house when he was home for the holidays. We never knew how his behaviour, personal hygiene and toilet skills would be. Looking back, it was obvious he was experiencing bowel problems – he'd go from constipation to diarrhoea. He would soak his underwear and bed linen as he had weeping secretions from his bowels. Sadly, it was a medical condition that could not be washed away – it was probably anal trauma. He had no issues like that before he went to Marylands.

My parents suspected Marylands was neglectful, but the brothers made out as if they were running some type of highly specialised programme that could not be disturbed. My mother visited the school and was appalled, but when she questioned them she was told: "You don't know how lucky you are to have these brothers caring for your child." She felt humiliated and she never took it further – you just didn't question 'authority' like that back then.

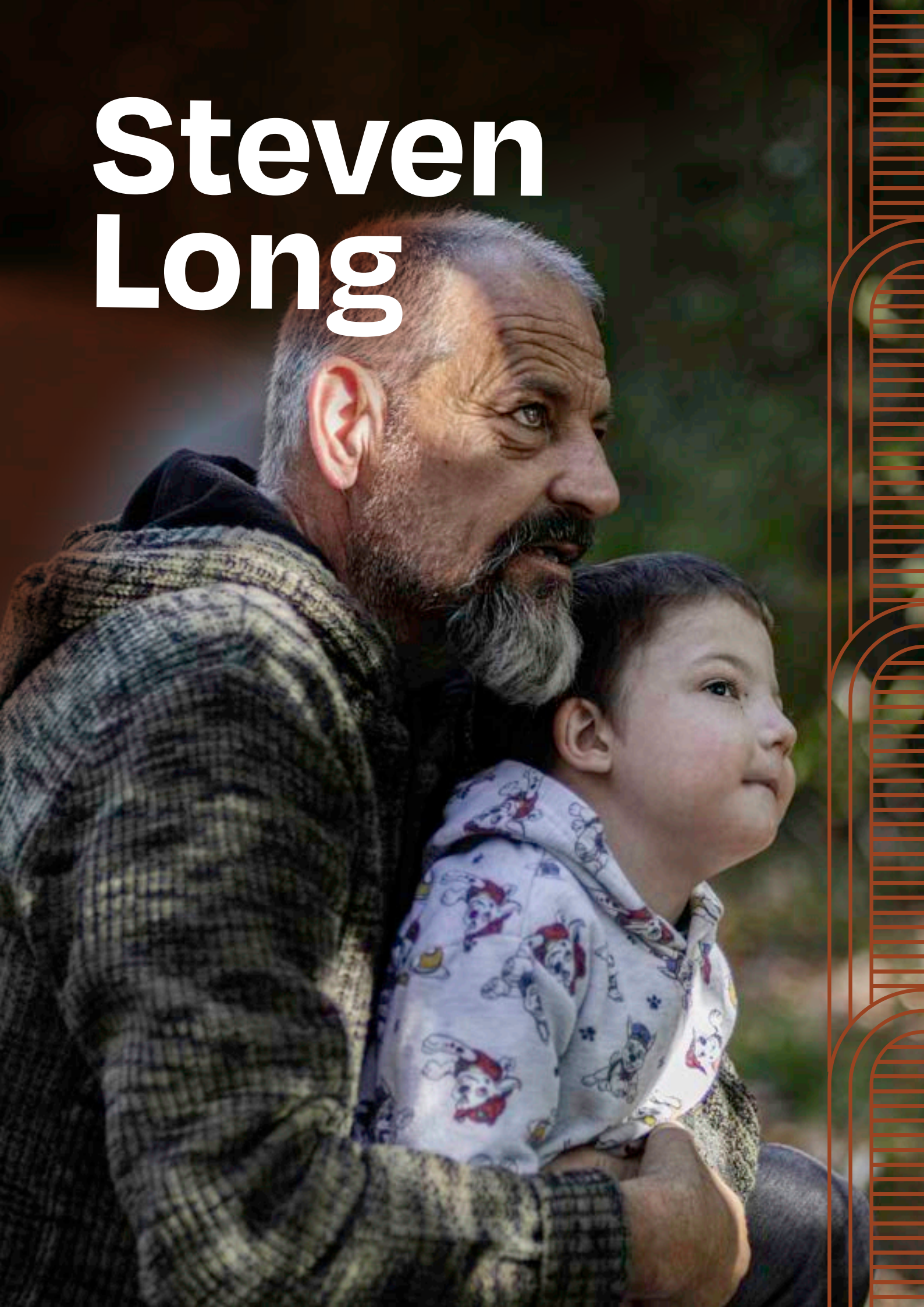
My brother was totally unprepared to live in the outside world. He couldn't read or write, he could hardly use a knife and fork. His oral and dental hygiene was truly appalling. Eventually we had his teeth removed and he got dentures. The dentist said it was one of the worst cases of dental neglect he had ever seen.

My brother was a lovely lad. He could be very funny, and ultimately he did amazingly well despite limited to no education and given what happened to him.

It saddens me deeply to know that my brother's life was cut short because of what happened at Marylands. I am angry and bitter. I always said my brother was never going to be a rocket scientist, but he was funny, charming and loved by all his siblings. He loved telling everybody that he had so many sisters who all fussed over him. He'd say that sometimes all we did was talk and he needed a break from us, which was probably true.

My mother was always told by the Catholic hierarchy that she was lucky the St John of God brothers were there to help boys with disabilities, but sadly they did not live up to their name. They have destroyed so many lives.

Steven Long



Ngā wheako o ngā purapura ora - Survivor experience:

Name	Steven Long[427]
Age when entered care	2 years old
Age now	56 years old
Hometown	Napier
Time in care	1968–1982
Type of care facility	Foster care; Catholic school – Marylands School; Family Home – Terrace Street Family Home (Palmerston North); home for the intellectually disabled Levin Hospital and Training School Kimberley Hospital; Boys' homes/schools – Christchurch Boys' Home, Hokio Beach School, Holdsworth School, Kohitere Training Centre, Ōwairaka Boys' Home, Wesleydale Boys' Home; psychiatric hospitals – Carrington Hospital, Lake Alice; youth facility – Manawatu Youth Centre; hostel – Anchorage Hostel (Hamilton); corrective training – Turangi
Ethnicity	New Zealand European
Whānau background	One older sister
Currently	Reunited with his sister in 1997 after separation

I had meningitis when I was very young, and my mother told me I got mild brain damage as a result. At five years old I was described by a paediatrician as being "a typical example of the hyperactive, minimally brain damaged child with compulsive behaviour and minimal powers of concentration."

I would've been okay though, if not for Marylands School.

My early years weren't happy, and my sister and I were taken away by Child Welfare and separated. I didn't see her again until I was an adult and she tracked me down. My mother had problems and Social Welfare didn't want me to be placed with my dad, even though he repeatedly asked to have contact with me. The few times I was allowed to live with him, everything went smoothly.

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[427] Witness statement of Steven Long, WITN0744001 (Royal Commission of Inquiry into Abuse in Care, 15 October 2021).

I was six when I was sent to Marylands, the youngest boy there. On my first day, someone had defecated in the gym and one of the brothers accused me of doing it. He physically rubbed my face in the faeces. All the other boys laughed at me.

Brother McGrath was a sexual predator. The first time he sexually abused me, I was sitting on his knee in the TV room. There were other boys there, and he started 'twitching' his penis against my buttocks. It was like he was acting out some of his fantasies. Later that evening he told me to come into his room, where he sexually abused me. I was horrified and scared. I went to one of the other brothers to tell him what happened, but he told me not to stir up trouble. I was beaten by one of the other brothers for 'telling lies' about Brother McGrath.

Then Brother McGrath beat me – he stripped me naked and beat me with a cane. I was curled up in a ball on the ground. He beat me so severely that my knees cracked, and I still have scars. He then sodomised me, either with his finger, penis or the cane – I'm not sure.

Brother McGrath always wanted to come into the dormitory and 'cuddle' us boys. If I refused, the next day I'd get a beating from him. He would strip me naked, beat the crap out of me, then sexually abuse me. He always threatened me to keep my mouth shut and told me that no one would believe me if I said anything.

Once I ran away and he caught me. He beat me, then locked me in a room for a month. I got one meal per day – of mashed potatoes. He took everything out of the room except the mattress and sheets. He sexually abused me in that room, too. I used to scream and yell for ages in there.

Brother McGrath would also kick me between my legs. One time my testicles got really swollen. I thought I couldn't have kids – so later in life when my son was born, it was a real shock.

When I was 10 years old, Brother McGrath caught me holding a pack of cigarettes belonging to another boy. As punishment, he made me sit in front of all the boys and smoke a whole pack of cigarettes. He made me inhale the smoke on each puff. This started my addiction to cigarettes.

My father wasn't allowed to visit me at Marylands. My mother did visit me but because I'd had so many different placements in care, I hadn't seen her for four years and I thought she was just another foster mother.

Social workers didn't care. I reported the abuse, and watched them write it up, but it's not even in my social welfare file. Nobody listened, I was just sent back to Marylands.

The brothers were treated like a law unto themselves. Brother McGrath had left the country by 1981 but he went on to sexually and physically abuse dozens of boys.

The State should take some responsibility for this, because I told them he was an abuser.

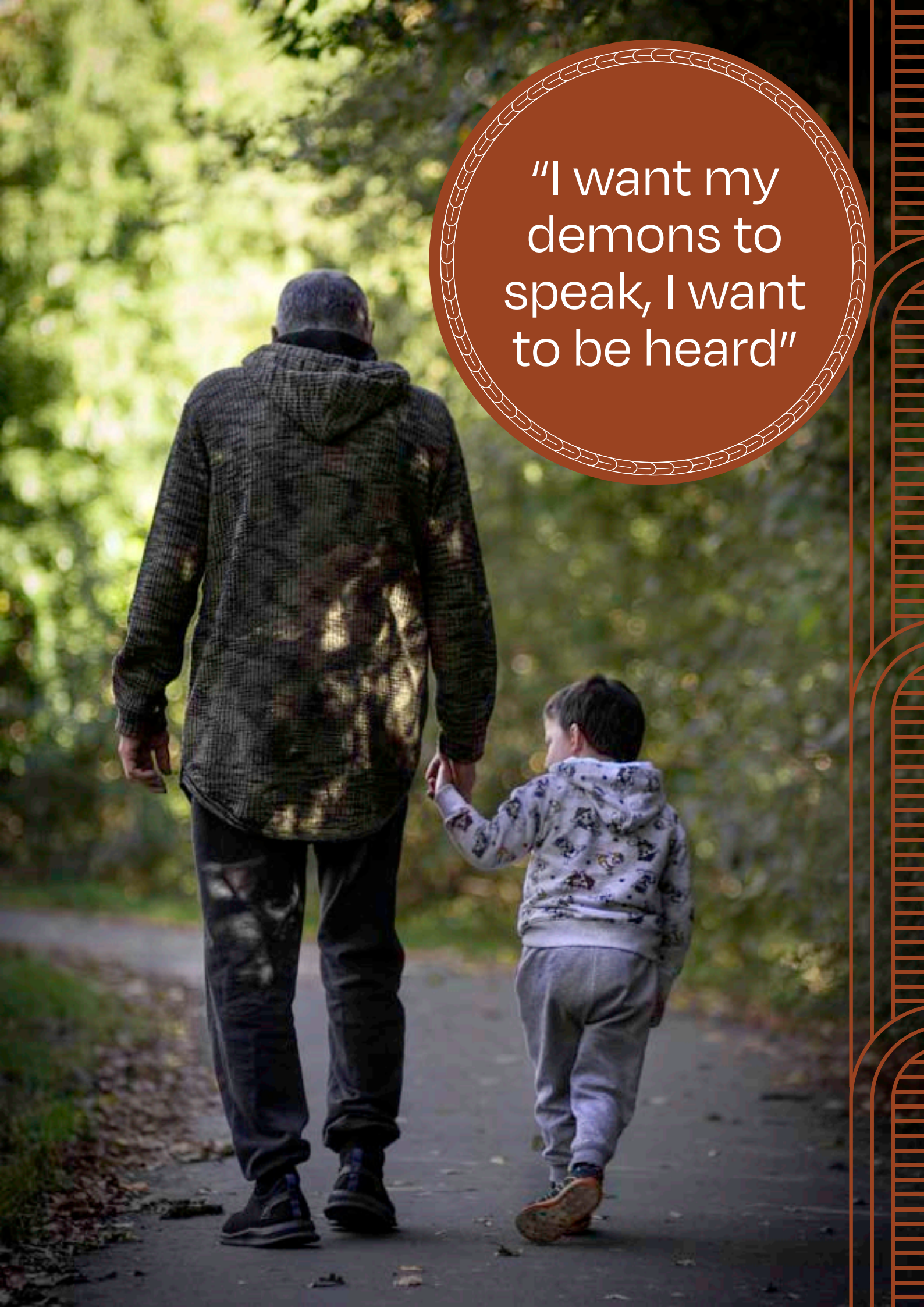
I went to many other care institutions as well as Marylands. I became depressed, I tried to take my own life at nine years old and I was angry, with a death wish because of all the rejection. I was only 13 when I was admitted to Carrington Hospital for psychiatric assessment, then I went to Lake Alice.

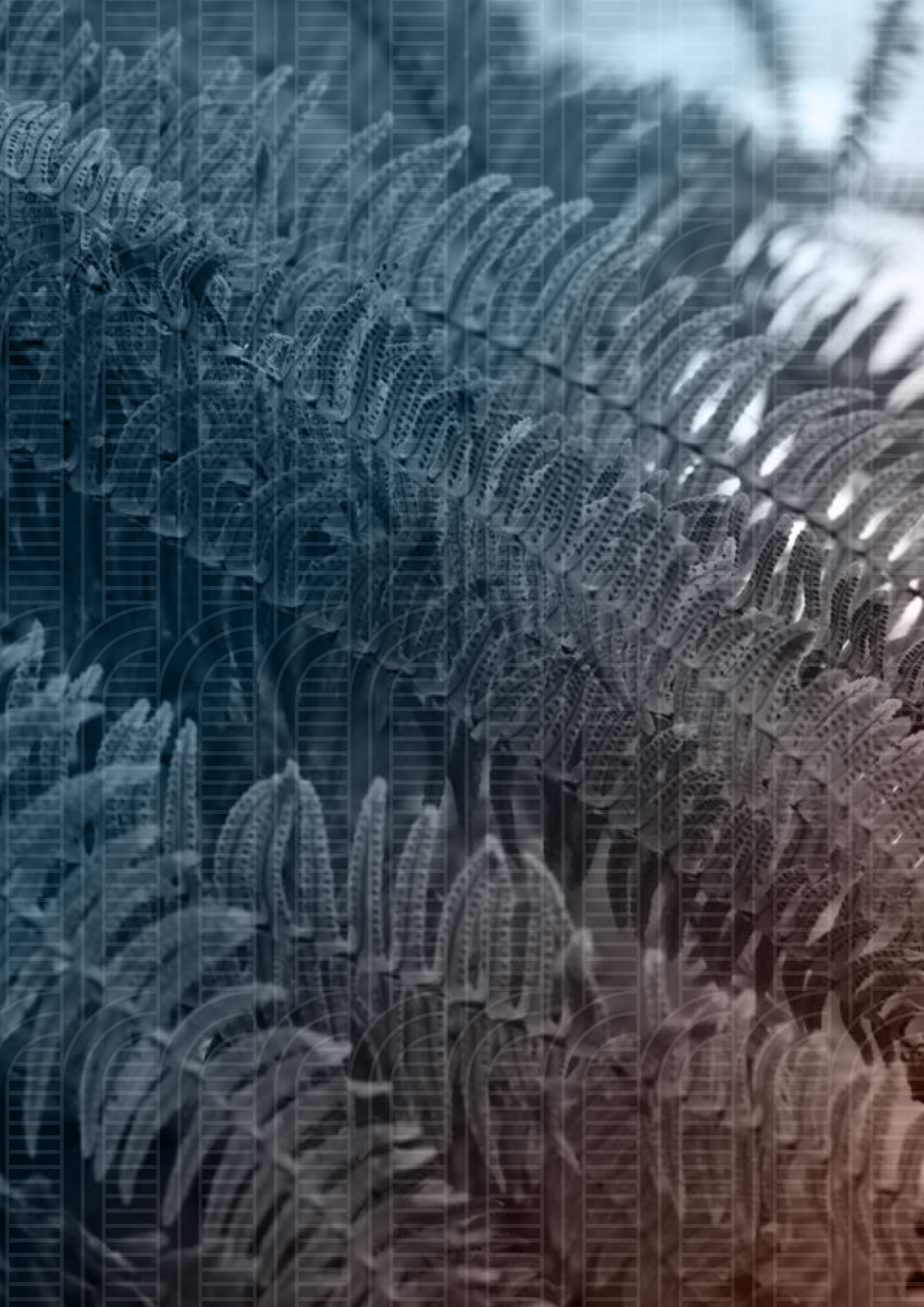
As an adult, I was in prison more often than not. I'd learned to survive behind closed doors, because I'd become institutionalised. When I was out in the community, I couldn't cope, so I committed crimes just so I could get back into jail. I'd been in institutions for so much of my childhood – they were just preparation for prison.

Because of being in care, I had PTSD and chronic anxiety. I'm angry that throughout my childhood I was put in danger and into situations where I was harmed. I'm angry I wasn't heard, and that my father was not given a decent chance with me. Things would have been different if I'd been placed with my dad. I suffer from nightmares and flashbacks about everything I've experienced, all rolled into one.

I gave evidence in the two Marylands trials and after that I started trying to change myself so I could stay out of prison once I got released. I got out in 2011 and I haven't been back to prison since then.

Before, when I spoke up about Marylands, which resulted in Brother McGrath and Brother Moloney being convicted, I was only acting as the speaker for my demons. The full story couldn't come out about how powerful the brothers were – they had us all to themselves, and they could hurt any defenceless little kid they liked. Now, I want my demons to be able to speak out about what happened in full detail. I want to be heard. I want justice to be served for all of us who were hurt by these monsters.


"I want my demons to speak, I want to be heard"



Upoko Tuarima: Ngā nawe me ngā Kawenga

Chapter Five: Complaints and Accountability

Upoko Tuarima: Ngā nawe me ngā Kawenga
Chapter Five: Complaints and Accountability

Whakatakinga
Introduction

1. Despite few visits by social workers to Marylands and Hebron Trust, some boys did manage to tell social workers about the abuse inflicted on them. In most cases, however, social workers did not believe them. Some social workers made a record of the allegations, but as far as we can tell, the Department of Social Welfare did nothing more than file the information away.

2. Children also managed to tell teachers and the police, but no steps were taken to intervene and in most cases the boys were not believed.

3. The Inquiry looked into what happened with the many disclosures and complaints raised, the steps taken by survivors, their whānau and support networks to continue to raise complaints and what the State and Order did or did not do. We also inquired into what redress some survivors received. Finally, we have formed a view on the human rights obligations and te Tiriti o Waitangi obligations owed by the Crown, the church and the Order to those in care at Marylands and Hebron Trust.

Te whakautu a te Kāwanatanga ki ngā nawe mō ngā tūkinotanga
Responses by the State to complaints of abuse

4. According to police records, a witness made a disclosure in April 1992 to the Department of Social Welfare regarding Brother McGrath sexually abusing a boy, yet he still spent time alone with him after the complaint was made.[428] The survivor subsequently withdrew his complaint.

[428] Witness statement of Peter Read, statement on post-hearing maters for the Marylands School public hearing, WITN0838004 (Royal Commission of Inquiry into Abuse in Care, 7 April 2021), para 3.1(a).

5. It is unclear when information about this survivor's abuse first became known to police, but it appears to have been around the time the complaint was first raised (and withdrawn) as the police officer running the investigation recalls this happening.[429]

6. In addition, in June 1992 a probation officer arranged a visit to Hebron Trust to discuss the allegations.[430] Nothing further was done at that time and Brother McGrath continued to work with vulnerable young people. In October 1992, a Hebron Trust youth worker provided a formal statement to police about this abuse.[431]

7. A former Marylands student disclosed to his social worker in 1992 that he had been abused by Brother McGrath and that there was a possibility other brothers were abusing as well.[432] He also reported the abuse to police.[433] He told his social worker that, while he can't remember the names of all the other boys who were abused, there were at least 40.[434] He said that if he had a list of the boys who were attending the school at the time, he would have been able to pick out their names.[435]

8. Another of the first survivors to come forward, Justin Taia, was abused at Hebron Trust between 1989 and 1992.[436] The abuse was severe. Justin was addicted to substances, and Brother McGrath provided him with alcohol and pills, including Rivotril, as a way of maintaining power over him.[437]

9. Justin ended up living in a small cottage owned by the Order and Brother McGrath 'paraded' him around before other brothers and staff at community meals.[438] Brother McGrath acted as Justin's representative and advocate, writing letters of support to the court and being the contact person for social workers.[439] He also supervised Justin's community work at Hebron Trust and attended Family Group Conferences with him.[440]

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[429] Witness statement of Lew Corbett, WITN1146002, para 4.5. See also: Report to Minister for Social Welfare from NZ Community funding agency, regarding Bernard McGrath and accountability for Hebron Trust, ORT0006888 (undated) paras 4.1–4.2. Police made approaches to Hebron in August 1992, but did not take formal action.

[430] Witness statement of Peter Read, WITN0838004, para 3.1(d)

[431] Witness statement of Peter Read, WITN0838004, para 3.1(f).

[432] Report to Minister for Social Welfare from NZ Community funding agency, ORT0006888.

[433] Report to Minister for Social Welfare from NZ Community funding agency, ORT0006888 paras 3.2, 4.2.

[434] Report to Minister for Social Welfare from NZ Community funding agency, ORT0006888.

[435] Report to Minister for Social Welfare from NZ Community funding agency, ORT0006888.

[436] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 354.

[437] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 357.

[438] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, paras 358, 360.

[439] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 359.

[440] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 359.

10. Despite the extremely high level of control that Brother McGrath exercised over Justin's life, in around May 1992, Justin stood up to Brother McGrath. He threw a glass at Brother McGrath's head in front of the other street kids, telling him to leave him alone and never touch him again.[441] Justin formally reported the abuse in around 1993.[442]

11. We heard that on several occasions local police found and returned boys who had run away from Marylands. Police showed little interest in finding out why the boys were running away, or what they were running from, even when the boys said there was abuse occurring. Detective Superintendent Peter Read told us NZ Police accepted they had missed an opportunity in the 1970s to identify Marylands as a possible location of child abuse.[443] When the boys reported abuse to police at that time, an investigation should have been commenced but was not.

12. Police also did not keep adequate records about incidents of boys who ran away from Marylands. Police could not find any pre-2002 records of students absconding from Marylands and being returned by police, or reporting abuse to them.

13. On several occasions, police received information about abuse at Marylands from sources other than students. For example, in May 1991, police received an anonymous phone call advising that Brother McGrath at Hebron Trust was "suspected of interfering sexually with little boys".[444] Police's Child Abuse Unit was informed but decided there was no need to take any action. It also decided there was insufficient information to enter the allegation in their national computer system.[445] Instead, officers simply filed a report and the file was archived. This meant that it was harder to ensure any pattern of allegations about Brother McGrath showed up over time.

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441 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 362.

442 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 363.

443 Transcript of evidence of Peter Read, TRN0000416, p 51, pp 517.

444 NZ Police report forms by Detective Sergeant W R Mitchell, regarding Brother Bernard McGrath, NZP0048198 (NZ Police, 1991), p 5.

445 NZ Police report forms by Detective Sergeant W R Mitchell, NZP0048198, p 4.

"I told a teacher about the abuse but she didn't believe me. She said brothers don't do things like that and I must stop lying. I also told another woman and she didn't believe us, so when we saw Brother McGrath take one of the boys, we went and got her to show her. She didn't say or do anything though. I told three social workers but they didn't believe me, either. At one point I ran away with another boy because of the abuse, and when the police caught us we told them, but nothing happened."

- Mr HZ

Te whakautu a te Rangapū me te Hāhi Katorika ki ngā nawe mō ngā tūkinotanga me te panoni wāhi noho
Responses by the Catholic Church and the Order to complaints of abuse, including geographic cure

14. The Order often did not record complaints of abuse. At times, the attitude within the Order was that the offending was a sin (failing to keep the vow of chastity) rather than a crime.[446] The victims were not given much consideration,[447] so keeping detailed records was not a high priority.

15. In a police interview, former Provincial Brother O'Donnell said that no allegations of sexual misconduct involving brothers were ever documented.[448] Reports of abuse were dealt with verbally and without documentation.[449] This approach was taken to avoid compromising the good name of the alleged abusive brother.[450] A documented record of abuse could jeopardise the brother's future life within the Order.[451]

16. In the 1970s, Mr HZ reported to a teacher and Brother Garchow, that he was abused by Brother Moloney and Brother McGrath.[452] This report was not recorded. This information is not included in the Order's raw data or the summary of what it knew and when.[453]

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[446] Statement from Brian O'Donnell to NZ Police regarding his life in the St John of God Order and knowledge of historical sexual abuse, NZP0012941 (NZ Police, 24 July 2003), p 5.
[447] Statement from Brian O'Donnell, NZP0012941, p 6.
[448] Statement from Brian O'Donnell, NZP0012941, p 5.
[449] Statement from Brian O'Donnell, NZP0012941, p 5.
[450] Statement from Brian O'Donnell, NZP0012941, p 5.
[451] Statement from Brian O'Donnell, NZP0012941, pp 5-6.
[452] Witness statement of Mr HZ, WITN0324015, para 53.
[453] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243. The Order provided a Briefing Paper summarising the dates when the Order first knew of an Aotearoa New Zealand-based report of abuse against Brother Garchow (and other brothers who ministered in Aotearoa).

17. Brother O'Donnell described the former response of the Order as "institutional protectiveness".[454] Another former brother confirms that there was a general sense of denial.[455] According to Dr Michelle Mulvihill, these attitudes remain the same today:

"Systemic abuse happens when good people place their trust in organisations and believe and hope that they stand for good, not for evil. Systemic abuse continues to take place when it is in the very DNA of the culture of any organisation. St John of God brothers demonstrate that they have caught a kind of organisational amnesia. They seem to have found a collective mute button, worldwide. Such an abusive culture installs a filter on the lens they use to see victims as they truly are. They install a damper, some blinders, some organisational ear plugs and then take a nap. The St John of God brothers as a worldwide organisation seem to have a need to erase these stories in each and every country they operate, misplace these tapes, zoom out, and slowly dissolve to black." [456]

Te panoni wāhi noho – te whakanekeneke i ngā parata kaihara mai i tētehi whakahaere ki tētehi, whai muri i ngā nawe mō ngā mahi tūkino
Geographical cure – moving offending brothers from one institution to the next after complaints of abuse

18. Even if boys reported abuse, often nothing was done about it.[457] The Order's leadership were aware of allegations of abuse in the 1960s, 70s and 80s,[458] but, in some cases, simply moved the offending brothers from one institution to another.

19. The practice of responding to allegations or suspicions of abuse by transferring the alleged abuser is known as the 'geographic cure'. This movement of alleged perpetrators was how the Order dealt with the earliest allegations of sexual abuse.

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[454] Statement from Brian O'Donnell, NZP0012941, p 6.
[455] Witness statement of Mr AR, WITN0901001 (Royal Commission of Inquiry into Abuse in Care, 26 April 2022) para 7.18.
[456] Transcript of closing statement of Dr Michelle Mulvihill from the Marylands School public hearing, TRN0000417 (Royal Commission of Inquiry into Abuse in Care, 17 February 2022), p 574.
[457] See our timeline of undisclosed abuse: Cries for help not believed or acted on over almost 40 years
[458] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, p 16.

For example, in Australia, allegations relating to a 1962 disclosure in respect of the Order, came to light when Brother O'Donnell made a statement to police in 2003:[459]

- Brother O'Donnell states that while he was Superior at Cheltenham, Victoria, between 1962 and 1967, he received a complaint of sexual abuse in respect of a Brother Bede who was working within the Order, in Australia.
- Brother O'Donnell states that as a result of the complaint, Brother Bede was transferred out of Cheltenham.

20. Brother Graham told the Victorian Parliamentary Inquiry that the earliest report of sexual abuse involving brothers in Australia was 1992. We note that the disclosure to Brother O'Donnell was 30 years before that date.[460]

21. In 1977, two anonymous letters to Brother O'Donnell reported abuse in Christchurch, by Brother McGrath and Brother Moloney.[461] On 3 September 1977, Brother McGrath received a phone call from Brother O'Donnell telling him he was being transferred to Australia. It is likely that the transfer occurred not long after Brother O'Donnell received one or both of the letters.

22. The Order had a very controlled and powerful hierarchy.[462] At any stage, the brothers could be relocated at short notice to work in different institutions in Aotearoa New Zealand, Australia or Papua New Guinea. The practice of regularly relocating brothers, whether because of abuse or for other reasons, contributed to much higher levels of offending than would otherwise have been the case. It also means that it is difficult for any single country to get a complete picture of the harm inflicted by this Order in the Oceania Province, or more widely. Brother O'Donnell said that if an allegation was made against a brother, and he acknowledged that there was truth in the allegation, the brother would be counselled to seek forgiveness from God, to deepen his life of prayer and to live a more ascetical and disciplined life.[463] If he were transferred elsewhere, it would be to give him a chance to change his behaviour.[464]

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[459] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, p 16.

[460] Victorian Parliament's Family and Community Development Committee Inquiry into the Handling of Child Abuse by Religious and Other Organisations, MSC0006399 (29 April 2013), p 5.

[461] Transcript of Makinson d'Apice Lawyers' interview of Brian O'Donnell, regarding his handling of sexual abuse complaints, CTH0018408 (19 December 2016), p 6.

[462] Witness statement of Mr AR, WITN0901001 (Royal Commission of Inquiry into Abuse in Care, 26 April 2022) para 6.7.

[463] Statement from Brian O'Donnell, NZP0012941, p 5.

[464] Statement from Brian O'Donnell, NZP0012941, p 5.

"The Catholic Church is a comfortable environment for paedophiles. A lot of offenders seek situations where they can have access to children and where they have authority. So they have access, they have authority and they have the cover of a very respected profession."

- Dr Murray Heasley

Ngā hāmene taihara ki ngā parata
Criminal prosecutions against brothers

Parata McGrath (ngā hāmene i te tau 1993 me te tau 2006) Parata Moloney (hāmene i te tau 2008)
Brother McGrath (1993 and 2006 convictions) and Brother Moloney (2008 conviction)

23. There were two police investigations into Marylands and Hebron Trust, which took place almost 10 years apart. The first investigation in 1993 related to abuse by Brother McGrath at both Marylands and Hebron Trust. The second investigation related to abuse by many brothers, including Brother McGrath, at Marylands.

24. The Order spent enormous sums defending the criminal charges brought against its members, including fighting applications to extradite several brothers to Aotearoa New Zealand to face trial.

Uiuinga Parata McGrath
Brother McGrath investigation

25. The 1993 investigation started because of whistleblowing by survivors and others.[465]

26. The investigation was managed by Sergeant Lew Corbett although he didn't have any specialised training to take on that work.[466] He believes that the investigation should have been dealt with by a detective from the Criminal Investigation Branch, not a sergeant.[467]

27. Sergeant Corbett was the only person assigned to the investigation, so it moved slowly.[468]

28. Despite these difficulties, and the lack of resourcing, Sergeant Corbett says that attitudes toward reports of male sexual abuse had been even worse in the past:

"I have witnessed many changes in policing over my years serving in New Zealand. There were very few male victims of sexual offences up until the 1990s. Back in the 1960s, you would have heard comments like 'just harden up' or similar, if a male wanted to complain."[469]

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[465] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 363.
[466] Transcript of evidence of Peter Read, TRN0000416, p 53, pp 519.
[467] Witness statement of Lew Corbett, WITN1146001 (Royal Commission of Inquiry into Abuse in Care, 24 March 2022), para 4.4.
[468] Witness statement of Lew Corbett, WITN1146001, para 3.14.
[469] Witness statement of Lew Corbett, WITN1146001, para 4.7.

Order moved Brother McGrath back and forth between their Australia and New Zealand schools, institutions

More than 100 offences over more than three decades and five trials

Trial 1

New Zealand 1993

Guilty of **10** offences against **6** boys

Sentence: 3 years

Trial 2

Australia 1997

Guilty of **6** offences of sexual abuse against **6** boys

Sentence: 9 months

Trial 3

New Zealand 2006

Guilty of **21** offences against **9** boys

SENTENCE: 5 years

Trial 4

Australia 2018

Guilty of **64** offences against **12** boys

Sentence: 33 years

Trial 5

Australia 2019

Guilty of offences against **12** boys

Sentence: 29 years

Brother Bernard McGrath was moved back and forth by the Order between their New Zealand and Australia schools and institutions for disabled children and young people needing shelter, care and support during the 1960s to 1990s

Content from 2020 Australian Broadcasting Corporation documentary Revelation, and news media coverage

29. Sergeant Corbett says that he did his job properly. However, he is not confident that police, at that time, would have appropriately investigated complaints about the brothers.[470]

30. During the investigation, the Order sent Brother McGrath to Australia. Sergeant Corbett said:

> *"This was rather annoying because I believed it was a direct result of both McGrath and the Order of St John of God learning of my investigation. I was speaking to numerous people in connection with the Hebron Trust at the time, so there was no way that they were unaware."*[471]

31. He also found it difficult to get information from both the State and the Catholic Church:

> *"...I got the run-around from the church when I attempted to get lists of attendees at Marylands and the Hebron Trust. Most of the time I hit a stone wall. I struggled getting records from Marylands School and was told by the diocese that the records were either lost or unable to be located. I also struggled to get any useful records from the education department."*[472]

32. Police received eight reports of abuse against Brother McGrath. Four of those complaints related to abuse at Marylands and four at Hebron Trust. Charges were laid in relation to seven of these eight reports.[473] One Marylands' complainant, Mr HZ, got halfway through his formal statement with police and did not continue.[474] The offending at Marylands occurred in the mid-1970s, and the offending at Hebron Trust was more recent.

33. Sergeant Corbett spoke to the Provincial of the Order about contacting Brother McGrath, but the Order was reluctant to bring Brother McGrath back to Aotearoa New Zealand.[475] To make progress, Sergeant Corbett contacted the Order's

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[470] Witness statement of Lew Corbett, WITN1146001, para 5.3.
[471] Witness statement of Lew Corbett, WITN1146001, para 3.14.
[472] Witness statement of Lew Corbett, WITN1146002, paras 3.11 and 3.12.
[473] First witness statement of Peter Read, WITN0838001 (Royal Commission of Inquiry into Abuse in Care, 5 August 2021), para 2.7.
[474] NZ Police Report Form, Sergeant L F Corbett, regarding outcome of McGrath trial, NZP0014846 (4 February 1993), p 1.
[475] Witness statement of Lew Corbett, WITN1146002, para 3.23.

Aotearoa New Zealand lawyer, Lee Robinson. Sergeant Corbett admits that he "did not do everything by the book" in his dealings with Mr Robinson.[476] He gave Mr Robinson a summary of the allegations against Brother McGrath, and it was agreed that Brother McGrath would not be interviewed when he returned to Aotearoa New Zealand but would instead plead guilty to the police summary of facts. Sergeant Corbett says that he "disagreed with this", but that it was "the best option under the circumstances".[477]

34. Brother McGrath did plead guilty and on 23 December 1993 he was sentenced to three years' imprisonment in relation to 10 charges of indecencies committed upon victims between the ages of eight and 16 years.[478] He was granted parole in 1995.[479]

2002/2003 ketuketutanga a ngā pirihimana e pā ana ki ngā tūkinotanga i te Kura o Marylands
2002/2003 police investigation into abuse at Marylands School

35. In 2002 and 2003, police undertook a more detailed investigation into abuse at Marylands. It was given the code name 'Operation Authority'. Detective Superintendent Peter Read (then Detective Inspector) oversaw child sexual violence investigations in Christchurch in the early 2000s. He oversaw Operation Authority and appointed the police investigation team. Detective Superintendent Read gave evidence at the Inquiry's February 2022 hearing into the Order.

36. Operation Authority began after a television documentary and media coverage in 2002 about abuse at Marylands, which resulted in police receiving complaints from throughout Aotearoa New Zealand and Australia.[480] In addition, Brother Peter Burke and Dr Michelle Mulvihill encouraged survivors who approached the Order to speak to police. Many did so.

37. Operation Authority once again involved allegations against Brother McGrath who, by that stage, had also been sentenced to a nine-month term of imprisonment in Australia for sexual offending there.[481] It also related to allegations of abuse committed by many other members or former members of the Order.[482] The allegations were of sexual indecencies, sodomy and physical abuse.[483]

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476 Witness statement of Lew Corbett, WITN1146002, para 3.25.
477 Witness statement of Lew Corbett, WITN1146002, para 3.25.
478 Witness statement of Lew Corbett, WITN1146002, para 46. See also: Letter from Sergeant L F Corbett, NZ Police, to Rachel Adams, NZP0014838 (16 July 1997), p 1.
479 R v McGrath [2006]; See also Letter from Sergeant L F Corbett, NZP0014838 , p 1;
480 NZ Police Report Form, NZP0012793, p 2.
481 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 747.
482 NZ Police Report Form, NZP0012793, p 1, 5.
483 NZ Police Report Form, NZP0012793, p 1, 5.

"I made statements to Christchurch police in relation to abuse I suffered ...

It was a stressful time having to relive the memories of the physical and sexual abuse I had endured ...

In making a complaint to the police it was my intention to have those responsible exposed and for them to be held accountable in a court of law. I was prepared to give evidence at a trial for Brother [IU], but this never occurred as the trial was cancelled at a late stage. I felt that he and the others, who had since passed away, had gotten away with abusing kids as we never had the opportunity to tell the truth in court."

- Mr IR

38. Operation Authority gathered a lot more momentum than the first investigation. Even so, police did not proactively seek out complainants.

39. The Order itself received more than 100 allegations of sexual abuse in 2002 and 2003.[484] Police did not contact all these people, even though all the names were provided to them, as the Order had advised them to contact police if they wanted to pursue a criminal complaint.[485] During the investigation, only 56 people reported abuse at Marylands to police, including two of the complainants who had already disclosed abuse by McGrath in 1993.[486] Some people who contacted police had not approached the Order.

40. Police said that the reasons why many former pupils didn't make complaints to them included: "intellectual ability to give evidence in court hearings, previous criminal offending and lack of respect/trust in police, fear of the judicial system, and in many cases embarrassment and reluctance to disclose the offending and effects of the offending in court."[487]

41. Unlike the approach that would likely be taken now in a mass allegation situation, police did not carry out scoping interviews of all the people who attended Marylands or Hebron Trust to find out whether abuse had occurred.[488] NZ Police say that in deciding not to approach all 537 former pupils of Marylands, consideration was given to the extensive media reports asking victims to contact police, the number of victims who had come forward already, and the interviews with complainants who had named other students as possible victims or witnesses to abuse. Those people were then contacted by investigators and asked if they had been abused too.[489] Detective Superintendent Read said that investigating officers were conscious that being contacted by police can be difficult for victims,[490] but also acknowledged that an approach to all former pupils "...would have necessitated a far larger response", indicating resourcing was a factor.[491]

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[484] NZ Police Report Form, NZP0012793, p 7, 8.
[485] Second witness statement of Peter Read, WITN0838002, para 2.2.
[486] NZ Police Report Form, NZP0012793, p 7–8.
[487] Second witness statement of Peter Read, WITN0838002, para 2.4
[488] First witness statement of Peter Read, WITN0838001, para 2.5. Second witness statement of Peter Read, WITN0838002, para 2.5.
[489] First witness statement of Peter Read, WITN0838001, para 11.4.
[490] Second witness statement of Peter Read, WITN0838002, para 2.3.
[491] First witness statement of Peter Read, WITN0838001, para 2.

42. The Operation Authority police investigation team was small, involving Detective Superintendent Read, a detective sergeant and three detectives who were selected for their "particular skill, sensitivity, and experience in handling this type of investigation".[492] However, at the time police had no specific training in dealing with at-risk adults, disabled people[493] and Māori or Pacific complainants.

43. Police worked with others to try and support the complainants, including Ken Clearwater, an advocate with the Male Survivors of Sexual Abuse Trust in Christchurch. The Trust provided specialised support to the complainants throughout the investigation and court processes, as did other counsellors and support people.[494] Police spoke to the whānau of complainants and to current caregivers to assess needs and the best ways of interviewing and providing support.[495]

44. Of the 58 complainants[496] who made statements to police of sexual abuse by brothers at Marylands, approximately 20 percent alleged a single incident of abuse. Most complaints described multiple occasions of abuse, and 18 complainants disclosed abuse by more than one perpetrator. Of those, five reported three or more perpetrators.[497] Three complainants described more than one perpetrator abusing them at the same time and a "handful" described another student being present.[498]

45. The alleged abuse included the full range of sexual offending from indecent touching to anal sexual violation. Many complainants described coercion and pressure to comply including rewards and threats, or actual physical violence during the sexual abuse. Complainants described being physically injured by the abuse, including rectal bleeding.[499]

46. The complainants were aged between six and 16 years old at the time of the abuse.[500] The delay between the abuse occurring as a child at Marylands and reporting to police as an adult ranged between approximately 17 to 45 years.[501]

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[492] First witness statement of Peter Read, WITN0838001, para 2.4.
[493] First witness statement of Peter Read, WITN0838001, para 5.5.
[494] First witness statement of Peter Read, WITN0838001, para 5.4. Second witness statement of Peter Read, WITN0838002, para 2.19.
[495] Transcript of evidence of Peter Read at Marylands Hearing, TRN0000416, page 46, pp 512.
[496] First witness statement of Peter Read, WITN0838001, para 3.2. This included two of the 1993 complainants.
[497] First witness statement of Peter Read, WITN0838001, paras 3.2, 3.9.
[498] First witness statement of Peter Read, WITN0838001, para 3.12.
[499] First witness statement of Peter Read, WITN0838001, para 3.11.
[500] First witness statement of Peter Read, WITN0838001, para 3.6.
[501] First witness statement of Peter Read, WITN0838001, para 3.7.

47. Police only recorded ethnicity for 47 of the 58 complainants,[502] of whom 43 were recorded as European/Pākehā and four as Māori. Detective Superintendent Read described data on disability as 'somewhat unclear': "Approximately 21 of the 58 complainants indicate that they had a disability in their formal statements. The disabilities referred to include autism, dyslexia, intellectual disabilities, and learning disabilities. A number of other formal statements indicate the complainant was sent to Marylands due to behavioural issues and/or being a 'slow learner'."[503]

48. Police attempted to obtain other evidence to corroborate the complainants' allegations. They gathered historical documents from Brother Peter Burke and from complainants and their families, including photographs, Department of Education records and school records. Detectives interviewed surviving staff members and other potential witnesses named in the complainants' statements.[504]

49. In June 2003, four detectives travelled to Australia where they interviewed complainants and members of the Order as witnesses, and tried to interview four of the brothers named as perpetrators. Of those, Brothers Lebler and Moloney declined to be interviewed.[505]

50. Not all survivors were happy with the way police dealt with them.[506] Detective Superintendent Read acknowledged at the Inquiry's public hearing that the investigation process requiring re-interviewing was traumatising for some complainants.[507]

51. But some spoke highly of the officers who ran the investigation. Ken Clearwater, an advocate who worked with many of the survivors, said:

"The police that were involved went above and beyond. They were so easy to work with. I admired the work they did at the time especially with the lack of resources, which was appalling. We are talking about people who had spent their lives fighting police officers being able to work with them through this process due to the empathy that the cops showed. Without that empathy I doubt things would have gone far. That needs to be acknowledged."[508]

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[502] First witness statement of Peter Read, WITN0838001, para 3.6.

[503] First witness statement of Peter Read, WITN0838001, para 3.8.

[504] NZ Police report form from Peter Read, regarding St John of God, Historic Sexual Abuse, NZP0012793, (23 May 2010) p 2–3. See also: NZP0015137, p 13, 22.

[505] NZ Police report form, NZP0012793, (2010) p 8.

[506] First witness statement of Peter Read, WITN0838001, para 5.9; See also: Second witness statement of Peter Read, WITN0838002, para 2.28

[507] Transcript of evidence of Peter Read at Marylands Hearing, TRN0000416, p 42, 46, pp 508, 512.

[508] Statement of Ken Clearwater, WITN649001 (Royal Commission of Inquiry into Abuse in Care, 14 June 2021), para 94. See also: Transcript of evidence of Ken Clearwater from the Marylands School public hearing, TRN0000414 (Royal Commission of Inquiry into Abuse in Care, 14 February 2022), p 53 pp 329.

Ehara i te mea i hāmenetia katoahia ngā nawe i whakatakotongia ai
Not all complaints resulted in charges being laid

52. There were 16 brothers from the Order named in formal statements as primary perpetrators of abuse, but some complainants could not recall or identify a perpetrator. Detective Superintendent Read stated that all of the named religious people were suspects "to varying degrees" of having committed abuse. Of those, six had died, and several were only named by the two complainants who were later convicted of making false complaints. One brother was named by a single complainant who did not want to pursue his complaint.[509]

53. In November 2003 police laid criminal charges against five brothers – McGrath, Moloney, IU (who has permanent name suppression), Garchow and Lebler.[510]

54. Police did not lay charges for offending alleged by the two 1993 complainants as Brother McGrath had already been convicted of abuse on them.[511] Charges were laid in respect of 40 of the remaining 56 complainants.[512]

55. Of the 16 complainants where charges were not laid:[513]

- seven did not want to pursue charges.
- three did not sufficiently identify a suspect.
- one only identified a suspect who was deceased.
- two were assessed as having made false complaints. Both of these individuals were subsequently charged and convicted of making false complaints to police.[514]
- police decided not to charge in respect of allegations by two complainants because their recollections were considered unreliable.
- one complainant made his allegations against Brother Garchow after charges had been filed and extradition proceedings were already underway in Australia.

56. Charging decisions were made by police in conjunction with the Crown Solicitor.[515] Formal records or logs of initial charging were not kept by police.[516]

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509 First witness statement of Peter Read, WITN0838001, para 3.14

510 First witness statement of Peter Read, WITN0838001, para 3.15

511 NZ Police report form, NZP0012793, (2010) p 6.

512 Second witness statement of Peter Read, WITN0838002, para 2.8.

513 Second witness statement of Peter Read, WITN0838002, para 4.5.

514 Second witness statement of Peter Read, WITN0838002, para 4.5. See also: NZ Police Report Form, Detective Inspector Peter Read, regarding the completion of Police operation, NZP0012793, (23 May 2010), p 2; Affadavit of Gregory Walsh, NZP0015752 (NZ Police, 5 July 2004), p 70–71.

515 First witness statement of Peter Read, WITN0838001, para 4.4.

516 Second witness statement of Peter Read, WITN0838002, paras 2.9, 2.16.

57. Brothers Moloney, Garchow and Lebler were in Australia and police invited them to return to Aotearoa New Zealand to face charges.[517] All three declined.

58. Detective Superintendent Read described the charging decisions:

> *"The large number of complainants and the consistency of their evidence meant that we were able to lay charges in respect of more complainants than we likely would have done if that complainant's cases was prosecuted in isolation. Extradition requirements also placed some restrictions on charging decisions. Australian authorities do not recognise representative charges and so we had to specify each charge as a set of circumstances at a particular time in order to satisfy Australian extradition requirements."*[518]

59. In Aotearoa New Zealand, police can lay a 'representative' charge where the same type of offending has occurred multiple times over a stated period of time. Unfortunately, however, that was not the approach in Australia, which meant that for extradition of the brothers to occur, the charges laid in Operation Authority had to be specific. Given the historic nature of the charges this inevitably later led to a situation where the full range of allegations made by some complainants was not fully covered in the charges before the courts in Aotearoa New Zealand.

60. Police only charged for allegations where at the time of charging a complainant intended to give evidence at trial.[519]

Tukunga panapana tāngata kia tae mai ai ngā parata ki Aotearoa Niu Tīreni ki te whakatinana i ngā hāmene i a rātou
Extradition proceedings to bring brothers to face charges in Aotearoa New Zealand

61. NZ Police, through Crown Law, applied to the Australian courts to extradite Brothers Moloney, Garchow and Lebler to Aotearoa New Zealand to face their charges. The extradition proceedings were opposed.[520] A lengthy extradition process, including numerous hearings and appeals, followed over the next three years.[521]

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[517] NZ Police report form, NZP0012793, (2010) p 6.
[518] First witness statement of Peter Read, WITN0838001, para 4.4.
[519] First witness statement of Peter Read, WITN0838001, para 4.5.
[520] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 94.
[521] NZ Police Report Form, NZP0012793, p 6, 9.

62. In February 2005, an Australian court ordered that Brothers Garchow and Moloney be extradited to Aotearoa New Zealand. They appealed, arguing that the charges were too historic and that there was a possibility of collusion between complainants.[522]

63. The appeal was successful, and extradition was refused.

64. NZ Police appealed this decision.[523] In October 2006, the extradition of Brothers Garchow and Moloney was finally ordered, and they were sent to Aotearoa New Zealand.[524]

65. The extradition application in relation to Brother Lebler was dismissed due to his age and failing health.[525] Ten complainants had identified Brother Lebler as a perpetrator.[526] It was very disappointing for the complainants to discover that Brother Lebler would not be extradited to face charges. A survivor even tried to track down Brother Lebler (also known as Thaddeus) himself:

"The Catholic Church wanted me to keep the abuse quiet. They said I could lose my house and all sorts of things like that. ...I was afraid that if I said anything they would want their money back and I was afraid to lose my house. That's why I didn't go to the police initially.

I eventually filed a complaint with the police though, purely out of anger. I wanted to have those responsible exposed and held accountable in a court of law. I was prepared to give this evidence at trial for Br Thaddeus, but this never occurred as the Australian courts refused to extradite him to NZ. I felt that he got away with his offending as I never got to explain what he had done to me ...

I went to [St John of God] in Halswell to find out where Brother Thaddeus was in the early 2000s. I paid $100 to Grant Cameron who hired a detective to find him. I went out there, and they said he was in Papua New Guinea, but he was actually in Australia ...

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[522] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 803.
[523] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 815.
[524] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 820.
[525] NZ Police Report Form, NZP0012793, p 6; Second witness statement of Peter Read, WITN0838002, para 2.13.
[526] Second witness statement of Peter Read, WITN0838002, para 2.14.

I feel the church has betrayed me by failing to accept responsibility in any form of public manner for hiding my abuser. It fuels me with anger and despair."[527]

66. The Order paid for the brothers' legal costs to defend the extradition proceedings, and the later hearings in New Zealand.

Tukunga hāmene, he rite tonu tā ngā parata whakatakoto wero ki ngā taunakitanga
Prosecution phase, the brothers continue to challenge the evidence

67. Brothers McGrath, Moloney, Garchow and Brother IU all pleaded not guilty to the charges against them and elected to face trial by jury.

68. Before their trials, each of the defendants challenged the admissibility of evidence and applied to stay or dismiss some or all of their charges. The grounds argued included the adverse effect of pre-trial publicity, that the redress process engaged in by Brother Burke and Dr Mulvihill had created a risk of false complaints, and that the risk of collusion between complainants meant a fair trial could not occur. Brothers McGrath and Moloney also each unsuccessfully applied for severance of charges for each of their complainants, into multiple separate trials.[528]

69. Throughout this period, police and Crown prosecutors continued to assess the credibility and reliability of each of the complainants and reviewed whether each could give evidence at trial. Detective Superintendent Read maintained there was no general view that the complainants lacked credibility or that their evidence was not reliable, but that the ability of a witness to give evidence and 'endure' cross-examination was a relevant consideration.[529] He stated:

"We were concerned about the extent to which some complainants would be able to withstand cross examination, both in terms of their personal resilience and their suggestibility. That was an ongoing assessment carried out by police and later by the Crown, with input from family and caregivers of complainants."[530]

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[527] Witness statement of Mr IH, WITN0671001, paras 106–111.

[528] R v A and B, High Court Christchurch, CRI-2003-009-12476, 11 March 2005, Hansen J; R v Moloney HC Christchurch CRI-2003-009-13598, 15 April 2008, Chisholm J.

[529] First witness statement of Peter Read, WITN0838001, para 5.6

[530] First witness statement of Peter Read, WITN0838001, para 4.5.

70. The charges relating to some complainants were dismissed prior to trial, on some occasions with the consent of the Crown. One example was a High Court judgment about a complainant who had alleged offending against Brother McGrath and Brother IU:

"It should be noted that Marylands School was designed and set up to provide accommodation and assistance for troubled boys. Many of the pupils attending the school suffered from physical and mental handicaps, and others from severe behavioural problems.

PBA has spent many years in a mental institution. Initially he made a complaint in relation to four St John of God Brothers. By the time his interviews had finished allegations were made against up to 12 brothers. The officer in charge of the case … accepted that PBA's evidence was very unsatisfactory. The Crown, through … responsibly accepted those difficulties.

In light of that I am quite satisfied it is appropriate to discharge both Accused, pursuant to s347, on all counts where PBA is the complainant."[531]

71. Brother McGrath successfully applied for a stay of proceedings of charges relating to four complainants who had made allegations of abuse to police after he had been sentenced in 1993. Another police officer, unrelated to the original 1993 investigation, had received new complaints from four men of sexual abuse by Brother McGrath at Marylands. Rather than charge him with new offences, this officer decided to 'custody clear' the allegations. The High Court Judge described this as a process that normally applied to dishonesty type offending, where police would approach a person already in custody and question them as to whether they had been involved in other similar offending, on the basis that any confession would not lead to additional charges or a longer sentence. If admissions were made, no charges were laid but the complaints were 'disposed of'. The officer spoke to Brother McGrath in prison who admitted that he had also abused the four additional complainants. He was not charged and the allegations were 'cleared'. The judge noted a lack of police records about what occurred. When interviewed by detectives during the Operation Authority investigation a decade

[531] R v A and B, High Court Christchurch, CRI-2003-009-12476, 11 March 2005, Hansen J.

later, Brother McGrath made the same admissions. The Judge considered that as a matter of principle if police encourage an accused person to admit to other crimes on the basis they will not face charges, it would be against public policy for them to be later charged.[532] All charges for three of the complainants were stayed, and in relation to a fourth complainant only sodomy charges went to trial as the complainant had not disclosed that abuse to the officer in 1993.

72. The High Court made a number of pre-trial rulings. The brothers appealed some of those rulings. Brothers Garchow and IU were successful in obtaining stays of proceedings as discussed below.

Whakawā a te kōti ki Niu Tīreni mō Parata McGrath rāua ko Parata Moloney
New Zealand Court hearings of Brother McGrath and Brother Moloney

73. Brother McGrath's jury trial took place in Christchurch in March 2006.[533] He was charged with 54 counts of sexual offending.[534] He pleaded guilty to one count at the beginning of the trial.[535] A long video interview with Brother McGrath by Operation Authority detectives was played to the jury, in which he admitted that boys at Marylands were ruled by fear, bribed and threatened if they were to disclose the offending against them.[536] Brother McGrath agreed that senior brothers punished boys who complained of abuse.[537] He himself had taken no action when a boy complained to him of being abused by another brother.[538]

74. During the trial, 10 charges were dismissed by the trial judge. In April 2006, Brother McGrath was convicted by the jury of 22 charges of "doing and inducing indecent acts on boys under 16 years of age".[539] The sexual assaults included touching, fondling, masturbation and oral sex but he was found not guilty of 21 charges including charges of sodomy.[540]

75. Brother McGrath was sentenced to five years' imprisonment.[541] In his sentencing notes, the judge noted that the "victim impact reports make distressing reading.

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[532] As described by Hansen J in R v A and B, High Court Christchurch, CRI-2003-009-12476, 11 March 2005 at [32]-[38].
[533] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 810.
[534] ABC Australia notes from sentencing of Brother McGrath, CTH0008331, p 40.
[535] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 811.
[536] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 810.
[537] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 810.
[538] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 810.
[539] NZ Police Report Form, NZP0012793, p 6.
[540] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 811.
[541] R v McGrath [2006], p 25.

They refer to anger, fear, anxiety, nightmares, low self-esteem, post-traumatic stress disorder and, in many cases, gross problems in later life."[542] Brother McGrath was released from jail in 2008.[543]

76. Brother Moloney faced trial in mid-2008. Prior to trial he successfully applied for four charges to be dismissed for one complainant who had alleged that he and Brother McGrath had jointly sexually abused him by doing indecent acts and sodomising him. The jury had found Brother McGrath not guilty of those charges in 2006. The High Court Judge considered it would be contrary to justice for the charges to go to trial and risk an inconsistent verdict for Brother Moloney.

77. Brother Moloney faced 30 charges at trial relating to 11 complainants. His defence was that the complainants were lying, or that they were mistaken as to who had abused them.[544] During the trial, the judge dismissed some of the charges. Brother Moloney was convicted by the jury on seven charges of doing and inducing indecent acts on five complainants.[545] He was acquitted of 16 other offences, including sodomy.[546]

78. On 1 August 2008, Brother Moloney was sentenced to two years and nine months' imprisonment.[547] In the sentencing notes the judge noted that a dominant aggravating feature was the breach of trust arising from his role as Prior, and said: "It was your role to provide for the particular needs of the pupils, but you abused a number of them instead."[548] The Judge recorded that Brother Moloney maintained his innocence and had no insight into his offending.[549] He was released from prison, on parole, in September 2009.[550]

79. Survivors were pleased that both Brother McGrath and Brother Moloney were sent to prison but thought the sentences should have been a lot longer. Darryl Smith said:

"Although I wasn't a witness I had gone to the trial wanting them to get imprisonment for life, but what they got was not the result we wanted. The Marylands ex-students were all there and we were all wild."[551]

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[542] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 814.
[543] ABC Australia notes from sentencing of Brother McGrath, CTH0008331.
[544] R v Moloney HC Christchurch CRI-2003-009-13598, 15 April 2008 at [10].
[545] NZ Police Report Form, NZP0012793, p 6; and Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 96.
[546] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 96;
[547] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 96.
[548] R v Moloney, HC Christchurch CRI-2003-009-13598, 1 August 2008 at [19].
[549] R v Moloney, HC Christchurch CRI-2003-009-13598, 1 August 2008 at [28].
[550] Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243, para 96;
[551] Witness statement of Darryl Smith, WITN0840001, para 148.

Brother Rodger Moloney

1935	Rodger William Moloney born in **Australia**
1960s	Qualified pharmacist, trained psychiatric nurse, joins Order of St John of God as brother
Late 1960s	At Churinga Special Residential School for Children, **Greenborough, Melbourne** – allegations of abuse made against him*
1971	**Appointed Prior of Order's Aotearoa New Zealand community, and head of Marylands School in Christchurch**
1970s	Multiple complaints of child sexual abuse against Brother Moloney and other brothers at **Marylands School** – either not believed, or acted on
1977	Anonymous letter alleging sexual offending against Brother Moloney (and Brother McGrath) sent to Order's Provincial in **Sydney** - Order says "no further action needed"
Late 1977	The Order sends Brother Maloney to the **Vatican**, to work in pharmacy
1980s/1990s	Worked in Order's **Papua New Guinea** operations, member of Order's Oceania provincial council (administering operations in Australia, Aotearoa New Zealand and Papua New Guinea)
Late 1990s	Worked at Order's **Kendall Grange** residential school "for children with behavioural disorders" in **Morrisset Park, New South Wales**
2003	Aotearoa New Zealand Courts issue extradition warrant (also for other Australian-based SJoG brothers) to face historic Marylands School child sex charges
2003-2006	The Order paid for two lawyers in Australia to oppose extradition. It is alleged up to $1m AUD was spent on extradition legal costs
Late 2006	High Court of Australia declines to hear extradition appeal, Brother Moloney flown to **Aotearoa New Zealand**. Charged and released on bail pending trial
June 2008	Christchurch High Court jury trial found Rodger William Moloney (73) guilty of seven counts of sexually abusing boys. Sentenced to prison for two years, nine months. He continued to plead not guilty to these charges
September 2009	Released on parole. Deported to **Australia**
2010	Order reports to media "Brother Moloney still a member of the Order, and will be accommodated within the Order in **Australia**"
8 August 2019	Moloney dies in **Sydney**

*Dr Michelle Mulvihill (worked for Order in Australia from 1998 to 2007) in a 2021 statement to Royal Commission

Parata Raymond Garchow
Brother Raymond Garchow

80. Brother Raymond Garchow faced 16 charges in relation to two complainants.[552]

81. Another survivor also alleged that Brother Garchow sexually abused him while at Marylands[553] but charges could not be laid as the extradition process was already too far along when allegations came to light.[554] It was intended that this complainant would still be a witness at Brother Garchow's trial to give evidence.[555]

82. The charges relating to one intellectually disabled complainant were stayed due to difficulties with the reliability of the evidence he gave against Brother Moloney at his trial.[556] The charges based on his evidence were dismissed during Brother Moloney's trial by the Judge who found that he was open to suggestibility and his evidence could not be relied upon.[557] The Crown Prosecutor advised that the charges against Brother Garchow, in relation to this complainant, should therefore not proceed to trial.[558]

83. The other complainant did not proceed as a witness due to his deteriorating health.[559] This complainant told the Inquiry:

"I very strongly feel that justice has never been served for me. I believe that Br Garchow should have faced a criminal trial for what he did to me and other boys at Marylands School. He got away scot-free."[560]

84. There were no remaining charges against Brother Garchow.[561] In addition, Brother Garchow himself was in poor health.[562] In July 2008, a permanent stay of proceedings was entered against him.[563] He died in March 2011.[564]

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552 NZ Police Report Form, NZP0012793, p 6.
553 NZ Police, Bundle of documents for second Marylands Response, NZP0042568 p 19-21.
554 Second witness statement of Peter Read, WITN0838002, para 2.8
555 NZ Police Bundle of documents, NZP0042568, p 20.
556 Witness statement of Peter Read, WITN0838002 (Royal Commission of Inquiry into Abuse in Care, 7 April 2021), para 2.10; NZ Police Report Form, NZP0012793, p 6.
557 Second Witness statement of Peter Read, WITN0838002, para 2.10.
558 Second Witness statement of Peter Read, WITN0838002, para 2.10.
559 Second Witness statement of Peter Read, WITN0838002, paras 2.10 and 2.21.
560 Witness statement of Edward Marriott, WITN0442001, para 8.5.
561 Second Witness statement of Peter Read, WITN0838002, para 2.10.
562 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 85.
563 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 839.
564 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 839.

I te rā i tīmata ai te whakawā a te kōti mō Parata IU, i whakatauria kia whakatakaroatia ngā whakahaere o te kōti
Brother IU was granted a stay of proceedings on the day his trial was due to start

85. Brother IU faced charges in relation to five complainants.[565] He had not opposed extradition and had returned to Aotearoa New Zealand voluntarily.[566]

86. One of the complainants died before the court hearing date[567] and the charges relating to another complainant were dismissed after a pre-trial hearing where the Crown and police acknowledged the complainant's evidence was unreliable.[568] That left three complainants and a total of eight charges of indecent assault and inducing an indecent act.

87. Brother IU applied for a stay of proceedings for the three remaining complainants based on historic delay, which was dismissed in August 2007. However, in 2006 the High Court had granted an application by Brother IU for the three complainants to undergo formal psychological examinations.[569] This was seen by police as an attempt to discredit the complainants.[570] The post-charge delays caused by this assessment process, together with the historic nature of the allegations, other delays in the proceeding and the effects of those on fair trial rights, were sufficient for Brother IU to successfully apply again for a stay of proceedings. This was granted on all charges for the three complainants, on the day his trial was supposed to start.[571]

88. One of those three complainants told us:

"I made statements to Christchurch police in relation to abuse I suffered ...

It was a stressful time having to relive the memories of the physical and sexual abuse I had endured ...

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[565] NZ Police Report Form, NZP0012793, p 7.

[566] R v F, HC Christchurch CRI-2003-009-12476, 7 February 2008 at [6].

[567] Second Witness statement of Peter Read, WITN0838002, para 2.11. NZ Police Report Form, NZP0012793, p 7.

[568] Second Witness statement of Peter Read, WITN0838002, para 2.12; R v A and B, High Court Christchurch, CRI-2003-009-12476, 11 March 2005, Hansen J at [8].

[569] Witness statement of Peter Read, WITN0838002, para 2.11. Second witness statement of Peter Read, WITN0838001, para 4.8(b). NZ Police Report Form, NZP0012793, p 7.

[570] Witness statement of Peter Read, WITN0838002 para 2.11. Second witness statement of Peter Read, WITN0838001, para 4.8(b). Witness statement of John Borlase, WITN118001 (Royal Commission of Inquiry into Abuse in Care, 25 January 2022), para 13.8. Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 800.

[571] R v F, HC Christchurch CRI-2003-009-12476, 7 February 2008.

In making a complaint to the police it was my intention to have those responsible exposed and for them to be held accountable in a court of law. I was prepared to give evidence at a trial for Brother [IU], but this never occurred as the trial was cancelled at a late stage. I felt that he and the others, who had since passed away, had gotten away with abusing kids as we never had the opportunity to tell the truth in court."[572]

Kawenga taihara a te Rangapū
Criminal accountability of the Order

89. By the time of Operation Authority, allegations had emerged internationally of the Catholic Church transferring sexual abuse perpetrators, or covering up their offending, or both.[573]

90. NZ Police did not undertake an investigation into systemic failures of the Order that contributed to the offending, or whether the Order responded to reports of abuse appropriately.[574]

91. Detective Superintendent Read said that although institutional criminal accountability is within NZ Police's function, Operation Authority was already a complex and difficult investigation. The operation's first priority was securing convictions against the individual perpetrators.[575] No consideration was given as to whether the Order and/or its senior leaders might be criminally responsible.

Ngā hāmene āpiti nō Ahitereiria
Further Australian convictions

92. In 2017, Brother McGrath was found guilty of many additional sexual assaults against 12 boys at a school in Australia.[576] These charges included sodomy, including one incident when Brother McGrath rubbed a boy's face in his own vomit after forcing him to perform oral sex on him.[577] Brother McGrath was sentenced to 33 years' imprisonment.[578]

93. In 2019, Brother McGrath faced still more charges in Australia.[579] He was again convicted and sentenced to a lengthy period of imprisonment.[580]

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[572] Witness statement of Mr IR, WITN0547001, paras 45–47.
[573] Second witness statement of Peter Read, WITN0838001, para 2.34.
[574] First witness statement of Peter Read, WITN0838001, para 4.2
[575] Second witness statement of Peter Read, WITN0838001, para 4.1.
[576] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 885.
[577] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 885.
[578] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 885.
[579] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 888.
[580] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 888.

Kāore i kaha tā te Kāwanatanga aroturuki, ahakoa ko rātou ngā kaiwhāngai pūtea matua
State provided minimal oversight, despite being major funder

94. The State appears to have assumed the Order would be a suitable organisation to run a school for disabled boys. The State provided a minimal level of oversight, despite providing significant funding to the Order.

Kura Ahumahi o Stoke, tē arohia o te ripoata a te Kōmiti a te Karauna
Stoke Industrial School Royal Commission report ignored

95. The State was already aware that abuse could occur within residential schools. This is not the first time abuse in a Catholic school has been the focus of a Royal Commission. In 1900, a Royal Commission investigated Stoke Industrial School (Stoke School), run by the Marist Brothers, a congregational Order, in Nelson.[581] As a result of the 1900 Royal Commission's report, the State and Catholic Church were aware of serious concerns that could arise when allowing a non-State entity to operate a residential school.

96. Stoke School was a privately registered school that housed both neglected and 'criminal' children.[582] The school was originally run by the local bishop, who handed it over to the Marist Brothers in 1889.[583] Before 1900, complaints surfaced around the level of care the children were receiving. Concerns were raised that punishment was more severe than would be permitted at a State-run industrial school,[584] the food was of poor quality and insufficient quantity, and the boys were poorly clothed.[585]

97. The 1900 Royal Commission upheld the complaint that punishment was more severe than permitted. Corporal punishment by way of flogging with supplejacks was considered to "[verge] on cruelty".[586] The Royal Commission recommended legislation be amended, so the relevant punishment regulations applied to all schools, both public and private.

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581 Royal Commission of Inquiry into Stoke Industrial School, Nelson, 1900, MSC0007515, p 1–2.
582 Royal Commission of Inquiry into Stoke Industrial School, MSC0007515, p 9.
583 Royal Commission of Inquiry into Stoke Industrial School, MSC0007515, p 2.
584 Royal Commission of Inquiry into Stoke Industrial School, MSC0007515, p 2.
585 Royal Commission of Inquiry into Stoke Industrial School, MSC0007515, p 3.
586 Royal Commission of Inquiry into Stoke Industrial School, MSC0007515, p 7.

98. The 1900 Royal Commission found:

"The Marist Brothers have had no experience in the Australasian Colonies except at Stoke, of any but day-schools, and are therefore untrained in the special duties involved in the management of boys permanently with them, while the habit of life of members of the Order cannot be regarded as calculated to develop those characteristics which are necessary to engender such feelings as should exist in those having charge of young lads."[587]

99. We understand this to mean the 1900 Royal Commission thought life as a Marist Brother would not have given them the compassion to understand that young boys should not be beaten.

100. The State had no knowledge of, or ignored the lessons from, the Stoke School Royal Commission when assessing the suitability of the Order to operate a private school in 1955.

Hē nō te Kāwanatanga
State oversight

101. Private schools have been required to register since 1921, with the focus of registration being on the concept of 'efficiency'.[588]

102. During the Faith Institutional Response Hearing in October 2022, the State spoke to the requirement for compulsory registration of all private schools, where the sponsoring Ministering had stated:

"In introducing the requirement for compulsory registrations [of private schools] ... the Government feels that it is not sufficient that we should allow any person to open a school in any sort of building and with any sort of instructions. To the children who attend these private schools the Government owes some duty to see that the schools are reasonably efficient, just as in the case of nursing-home, private hospitals, dentists and plumbers we insist on registration to protect the public and secure efficiency.

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[587] Royal Commission of Inquiry into Stoke Industrial School, MSC0007515, p 6.

[588] Transcript of the Crown's opening statement from the Faith Institutional Response Hearing, TRN0000411 (Royal Commission of Inquiry into Abuse in Care, 09 February 2022) , p 26.

The concept of efficiency meant the:

Premises, staff, equipment and curriculum of the school are suitable; that the instruction afforded therein is as efficient as in a public school of the same class; that suitable provision is made for the inculcation in the minds of the pupils of sentiments of patriotism and loyalty."[589]

103. As a registered private school, Marylands received State funding from the Department of Education.[590] It also received funding from the Department of Health and the Department of Social Welfare.[591] The State placed children into care at Marylands. At the hearing, the State said that, while it is sometimes talked about and thought of as a single unified entity, its statutory roles and responsibilities were owed by various State agencies.[592] There has never been a single definitive statement of the State's responsibilities towards children at private, faith-based schools such as Marylands.[593]

104. Hebron Trust was accredited by, and received funding from, the Community Funding Agency, which was part of the Department of Social Welfare.[594] Hebron liaised with State agencies in Christchurch, including police and courts, about the care of at-risk young people.

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[589] Brief of evidence from Helen Hurst (Associate Deputy Secretary, Ministry of Education) for the Marylands School public hearing, EXT0020167 (Royal Commission of Inquiry into Abuse in Care, 7 October 2021), para 3.6.

[590] Brief of evidence from Helen Hurst (Associate Deputy Secretary, Ministry of Education) for the Marylands School public hearing, EXT0020167 (Royal Commission of Inquiry into Abuse in Care, 7 October 2021), para 4.14.

[591] Brief of evidence from Helen Hurst (Associate Deputy Secretary, Ministry of Education), EXT0020167, para 4.14.

[592] Transcript of the Crown's closing statement from the Marylands School public hearing, TRN0000417 (Royal Commission of Inquiry into Abuse in Care, 17 February 2022), p 9, pp 577.

[593] Transcript of the Crown's closing statement, TRN0000417 p 9, pp 577.

[594] Transcript of evidence of Peter Galvin for Oranga Tamariki, for the Marylands School public hearing, TRN0000416, p 40, pp 550.

Ngā whakaurutanga, me te korenga o te Te Tari o te Ora i whai i ngā aroturukitanga
Placements and failure of monitoring by Department of Social Welfare

105. Once children were placed at Marylands by the State, there was little ongoing monitoring or oversight to ensure the children were happy and thriving. It appears neither the Child Welfare Division of the Department of Education or the Department of Social Welfare carried out any audits or inspections of Marylands School.[595]

106. No cultural issues were considered when the State placed tamariki Māori at Marylands.[596]

107. During the Marylands public hearing, Mr Galvin of Oranga Tamariki confirmed he was also not aware of any policy that required a social worker to assess the accessibility of the school grounds and facilities before placing State wards with physical disabilities that affected their mobility.[597]

108. It was acknowledged by Mr Galvin that when policy relating to placement of State wards was in place, such as the explicit direction to obtain parental consent when placing a protestant ward of the State into a Catholic institution, it wasn't always followed. Alan Nixon, for example, was Protestant but was placed as a State ward at Marylands without his parents' consent as the policy required.[598]

109. Typically, each child placed at Marylands by the State had a child welfare officer or social worker in their home district,[599] and the local Christchurch District Office acted as a 'go between' for the school and the home district officer.[600] It appears that the home district officers were responsible for visiting and reporting on the child,[601] and the Christchurch District Office was responsible for arranging annual progress reports from the school and providing these to the home district officer.[602]

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595 Transcript of evidence of Sonja Cooper and Sam Benton for Cooper Legal from the Marylands School public hearing, TRN0000414 (Royal Commission of Inquiry into Abuse in Care, 14 February 2022), p 67, pp 343.

596 Transcript of evidence of Peter Galvin for Oranga Tamariki from the Marylands School public hearing, TRN0000416 (Royal Commission of Inquiry into Abuse in Care, 16 February 2022), p 80, pp 550.

597 Transcript of evidence of Peter Galvin for Oranga Tamariki from the Marylands School public hearing, TRN0000416 (Royal Commission of Inquiry into Abuse in Care, 16 February 2022), p 92, pp 558.

598 Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 94, pp 560.

599 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 19.

600 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 19.

601 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 19.

602 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 19.

110. At a bare minimum, home district officers were required to visit State wards once every four months.[603] It seems that a sliding scale was anticipated. At the beginning of a placement, it was expected there might be weekly visits, which would then perhaps be reduced to fortnightly visits.[604] A review of a sample of files showed the number of visits by social workers met the minimum of three visits per year on average. However, it is the Inquiry's view that a policy of only three visits per year was grossly inadequate and proved ineffective in detecting abuse.

111. The social workers' monitoring 'visits' did not always take place at Marylands.[605] They could also take place in the home district when the child was home for holidays, and it seems that most did.[606] Although the policy anticipated that visits would occur every three months, the reality was that the visits were geared around the school holidays.[607] There might be two 'visits' over the course of the holidays, and then no further visits for a long time after that.[608]

112. Social workers did visit Marylands on occasion, but they did not always see every child on their caseload, and they rarely spoke to the children without a brother present.[609] There was no guidance that the child had to be spoken to away from the brothers.[610]

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603 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, p 549.

604 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 563.

605 Transcript of evidence of Peter Galvin for Oranga Tamariki from the Marylands School public hearing, TRN0000416 (Royal Commission of Inquiry into Abuse in Care, 16 February 2022), p 96, pp 562.

606 Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 98, pp 564.

607 Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 96, pp 562.

608 Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 96, pp 562.

609 Witness statement of Sonja Cooper and Ben Benton of Cooper Legal, WITN0831001, para 41.

610 Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 95, pp 561.

113. The State says that there was no requirement for children who did not have formal legal status with the Child Welfare Division or the Department of Social Welfare to be visited at all.[611] One survivor, Danny Akula, said:

> *"In terms of my placement at Marylands, MSD said that it had found no practice failures or breaches of Child Welfare's duty of care. This was because I was not under any formal status at the time of my placement …*
>
> *… Cooper Legal took issue with MSD's tendency to absolve itself of any liability on the basis that during particular periods I did not have any status, and therefore Social Welfare was not required to do anything. Cooper Legal pointed out that this was a completely self-serving argument which had been run every time there had been a trial about the extent of the Department's duty of care. Cooper Legal pointed out that such arguments had failed in previous cases before the courts."*[612]

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611 Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 97, pp 563.

612 Witness statement of Danny Akula, WITN0745001, paras 243-244.

Te korenga o te Rangapū i whakautu i ngā whakapae tūkino i te Kura o Marylands
Failure by the Order to act on allegations of abuse at Marylands School

114. From the late 1970s through to the early 2000s, the Order or other church figures were told of numerous allegations against brothers at Marylands, but in nearly all cases failed to act on them. Brothers McGrath and Moloney were mentioned most frequently in these allegations. In late 1977, church authorities transferred Brothers McGrath and Moloney to Australia and the Vatican respectively. They would both later be convicted of sexual crimes against Marylands boys over many years. The experience with Brothers McGrath and Moloney is not the only example of the Order's failure to act.

115. The timeline below sets out a summary of the allegations we know came to the Order's attention but were ignored.

    i. In 1977, the Order received two anonymous letters alleging abuse by Brother McGrath and Brother Moloney. The Order's Provincial, Brother Brian O'Donnell, concluded the allegations could not be substantiated and had the letters destroyed "because of the harm [they] could do".

    ii. In 1977, Brother Timothy Boxall received a phone call from a sister who worked in the hospital saying Brother McGrath was sexually abusing boys. He says he passed on the allegation to Brother O'Donnell.

    iii. Also in 1977, a lay teacher at Marylands told Brother WW that Brother McGrath was sexually abusing boys. Brother WW says he told Brother O'Donnell about the allegation.

    iv. In 1983, Brother DQ was transferred from Australia to Aotearoa New Zealand after reports of abuse in Australia. Reports of abuse were made against that same brother relating to his time at Marylands and he was transferred back to Australia (leaving the Order shortly after).

v. In October 1993, the Order's data records that former Marylands student Brian Uttinger reported that Brother Moloney had been sexually abusing him.

vi. In December 1993, the mother of a boy who had attended Marylands in the 1970s wrote to Cardinal Thomas Williams, the Archbishop of Wellington, saying that her son had informed her that he had been sexually assaulted throughout the entire two years he had been at the school. She also said her son told her that brothers had sexually abused other boys. Cardinal Williams passed this information to the Bishop of Christchurch, Bishop Meeking,[613] who then asked Brother Joseph Smith to "write to the person concerned indicating you have received it from the Cardinal and that the matter is being dealt with."[614] The Inquiry asked Brother Joseph Smith whether he recalled receiving the letter from Bishop Meeking. He replied: "I have no memory of this letter and any response I may have made to it."[615]

vii. In 1997, Brother McGrath signed a statement provided to the Order that another brother had sexually abused a Marylands boy, and later identified that brother as Brother Moloney.

viii. In December 1999, Mr HZ, a survivor of Lake Alice and Kimberley, met with members of the Dunedin Sexual Abuse Protocol Committee, including Sister Sue France from the Sisters of Mercy. Mr HZ disclosed that Brother McGrath, Brother Moloney and other brothers had sexually abused him while at Marylands. The Sexual Abuse Protocol Committee found the allegations credible. The Order signed a settlement agreement with Mr HZ in August 2000.

ix. In July 2001, a mother of a boy who had been at Marylands left a message with the Order asking to meet the Provincial Brother Burke about her son's experience at Marylands, asking where Brother McGrath, Brother Moloney and Brother Sebastian were living and "what changes were going to happen". She did not have a meeting with Brother Burke until a year later, in July 2002.

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613 Letter from Archbishop of Wellington to Bishop Meeking, passing report of abuse to Bishop Meeking and suggesting that the Order be notified, CTH0016715, 10 December 1993, p 2–4.

614 Letter from Bishop Meeking to Brother Joseph Smith, requesting the person who made the report of abuse be contacted, CTH0015253, (15 December 1993).

615 Witness statement of Brother Joseph Smith, WITN1273001 (Royal Commission of Inquiry into Abuse in care, 27 May 2022), para 58.

x. In December 2001, a survivor told Christchurch priest Father Paddy Cahill he had been sexually abused at Marylands. Father Cahill met Brother Burke in December 2001 to discuss the allegation.

xi. In January 2002, Brother Burke asked to meet with two former Marylands staff members to ask if there was anything he should know about Marylands. They told him that they had had "concerns over Brother McGrath, Brother Moloney and Brother Keane".

xii. In March 2002, a brother told Brother Graham he had "an uncomfortable encounter" with Brother Moloney due to sexual innuendo and inappropriate touching. A second brother also says he raised concerns with Brother Graham about Brother Moloney a few months before Brother Moloney was asked to resign from his position.

xiii. On 16 April 2002, Brother Burke and Dr Mulvihill met Brother McGrath to discuss Brother Moloney. Brother McGrath told them that Brother Moloney "was as much an offender as me" and that "backyard talk" among the brothers was that Brother Moloney was an abuser. Ten days later, Brother Moloney was asked to resign from his positions.

xiv. In July 2002, Brother Burke met with a survivor, Mr DO, who disclosed abuse by Brother Garchow and others.[616]

xv. In August 2002, Brother Burke was told by a former Marylands student that Brother Garchow and other brothers had abused him.

xvi. On 3 October 2002, Brother Burke wrote to the Bishop of Paramatta in Australia, Bishop Kevin Manning, in accordance with the process at the time for the transfer of clergy or religious operation in Australia. He said he was unaware of "any circumstances that might give rise to a complaint that Brother Raymond Garchow is likely to offend against Professional Standards".[617] That assurance was not withdrawn until October 2003 after police advised Brother Burke that they were charging Brother Garchow. At this time, Brother Burke withdrew Brother Garchow from ministry.

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[616] Letter from Brother Peter Burke to Mr DO, regarding Mr DO's settlement amount, CTH0014562 (14 March 2003), p 6.

[617] Letter from Brother Peter Burke to Bishop of Paramatta in Australia Bishop Kevin Manning, regarding the transfer of Brother Raymond Garchow to Australia, CTH0011760 (3 October 2002), p 9.

Cries for help not believed or acted on over almost 40 years

Survivors shared with the Royal Commission the many times their reports of abuse were ignored

Years of disclosure	Survivor	Abused by	Disclosed to	Outcome
Marylands School				
1955	Mr AL	Brother Martin Moynahan (**Brother Berchmans**)	Brother John Donnellan (**Brother Bede**)	Survivor threatened by William Lebler (**Brother Thaddeus)** for "telling"
1966-1970	Mr IR	Brother Charles Hodgins (**Brother Denis)** **Brother GRO-B** Brother Thomas Herbert (**Brother Kilian**) Brother Patrick Delaney (**Brother Delaney**) **Brother IU** Brother Thomas Dillon (**Brother Raphael**) Brother Celsus Griffin (**Brother Griffin**)	Brother IU	After complaining to **Brother IU**, **Brother Delaney** did not bother him again. However, **Brother IU** then sexually abused Mr IR When Mr IR disclosed further abuse by **Brother Griffin**, **Brother Delaney** "beat me to the point my ears were sore for a month"
1967-1976	Anonymous	**Brother Bede**	Brother Rodger Moloney (**Brother Moloney**)	Not believed, told he was "telling stories"
1971	Darryl Smith	Brother Damian Keane (**Brother Keane)**	Marylands nurse	Was not believed

Years of disclosure	Survivor	Abused by	Disclosed to	Outcome
1972-1976	Mr DL	Brother Bernard McGrath (**Brother McGrath**)	Marylands teacher **Brother Moloney**	Mr DL was being sexually abused by **Brother McGrath**, however was scared to disclose the sexual abuse: "I can remember telling her about Brother McGrath picking on me. I showed her some bruises I had" "I did not tell her about the sexual abuse. I was too scared to mention it. She then told Brother Moloney about it. The abuse got worse after that"
1972-1979	Mr DG	**Brother Moloney –** Prior of the St John of God order in New Zealand, and head of Marylands School **Brother McGrath**	Brother Leonard Lock **(Brother Sebastian)** Social worker	**Brother Sebastian** said what other brothers did "wasn't very nice", but he did nothing about it Instead, Mr DG was beaten by both **Brothers McGrath and Moloney** When Mr DG reported the abuse to the social worker, nothing was done Instead, Mr DG was beaten by **Brother Moloney** against a brick wall. Mr DG still has a lump on his head from that beating
1973-1977	Mr HZ	**Brother McGrath** **Brother Moloney**	Brother Raymond Garchow **(Brother Garchow)** four social workers Marylands caregiver	**Brother Garchow** did nothing Social workers did nothing One said she didn't believe him, said "the brothers don't do things like that" Marylands caregiver also didn't believe him

Years of disclosure	Survivor	Abused by	Disclosed to	Outcome
1975-1979	Mr DM	**Brother McGrath**	Social worker **Brother Garchow**	Both "seemed shocked" to hear he had been sexually abused the night before After that, Mr DM was not abused by McGrath again
1976	Alan Nixon	**Brother McGrath** **Brother Bede** **Brother Moloney**	Social worker NZ Police	"The sergeant called me a liar – they thought I was being smart"
1977-1978	Steven Long	**Brother Moloney** **Brother McGrath**	Social workers	"Nothing was done, even though I saw that it was all written up at the time. "I am aware that this is not even in my social welfare file. "Nobody listened to me – maybe they thought I was making it up. I was just sent back to Marylands."
1977	Anonymous	**Brother Moloney** **Brother McGrath**	Anonymous letter of complaint about "sexual misconduct" sent to SJoG Provincial (regional leader) **Brother Brian O'Donnell** in Sydney	As letter anonymous, Order reports "no further action was deemed appropriate" **Brothers McGrath** and Moloney moved from Marylands later that year. **Moloney** to the SJoG in the Vatican, **McGrath** to SJoG Kendall Grange residential school for intellectually disabled boys, New South Wales, where he was later convicted and imprisoned in Australia for the sexual abuse of multiple boys

Years of disclosure	Survivor	Abused by	Disclosed to	Outcome
St Joseph's Orphanage				
1962-1969	Mr JB	Five different unidentified priests or brothers	Nuns of St Joseph's Orphanage	Orphanage nuns were "ferocious". Accused Mr JB and his brother of being "devils". They were caned, had soap put in their mouth "for the dirty lies we were saying about priests"
1968	Mr AU	Unidentified priest	Sister Xavier	"She told me it (the abuse) was between me and God"
1970	Mr IY	Unidentified brother or priest	Sister Theresa, head of St Joseph's Orphanage	She said Mr IY was "struggling to differentiate between fact and fiction" Mr IY believes the nuns were aware of the abuse by the brothers
Hebron Trust				
1991	Mr JA	**Brother McGrath**	Hebron Trust social worker NZ Police	Mr JA was moved to another Hebron Trust safe house, was not abused after that McGrath later convinced Mr JA to withdraw his sexual abuse complaint against him (McGrath)
1993	Hanz Freller	**Brother McGrath**	Hebron Trust social worker NZ Police	McGrath convicted and imprisoned on charges relating to this and abuse of other boys

Survivors listed as anonymous have all given evidence to the Royal Commission, excluding the writer of the 1977 anonymous complaint letter sent to the Order of St John of God Provincial in Sydney

Te korenga o te Rangapū me te Tarati o Hebron i whakautu i ngā whakapae tūkino a Hebron
Failure by the Order and Hebron Trust to act on allegations of abuse

116. In addition to the Order's knowledge of the allegations made in 1977, Provincial Brother Graham says the Order was aware of an allegation of abuse by Brother McGrath at Hebron in May 1992 and the Order was told of an allegation by one of the Hebron residents that Brother McGrath was abusing him. There was a further June 1992 report of abuse by Brother McGrath, who was only withdrawn from Hebron in August 1992 (after an 11 August 1992 report of abuse in Australia).[618] He says there was a further allegation against Brother McGrath in Aotearoa New Zealand in June 1992.[619] Neither 1992 report of abuse is included in the Order's abuse data provided to the Inquiry.

117. Both the Order and Hebron Trust have later misrepresented how they responded to those 1992 reports of abuse at Hebron.

118. Cathy Harrison, Director of Hebron Trust, told the media in 1993 that Hebron Trust had "acted immediately".[620] This is contradicted by a 1993 article in The Press which reported that three Hebron staff had expressed concerns about the handling of abuse allegations made a year previously."[621]

119. Provincial Brother Smith told the Prior General in Rome (Brother O'Donnell) in January 1994 that Brother McGrath had been convicted in Aotearoa New Zealand in December 1993. Brother Smith said:

"Before his arrest, as soon as we became aware of allegation [sic], Brother Bernard [McGrath] was removed from ministry and was admitted immediately to an appropriate treatment facility in the U.S.A. It has been a very difficult time for all concerned and I ask for your continued prayerful support."[622]

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618 Witness statement of Brother Timothy Graham, WITN0837001, paras 170 and 172.

619 Witness statement of Brother Timothy Graham, WITN0837001, para 170 and 172; See also Te Rōpū Tautoko Marylands Briefing Paper #2: Summary of events relating to the Hebron Trust, MSC0007268, para 42.

620 Sarona Losefa, "Workers quit over action on abuse claims", The Press (15 October 1993), NZP0015053.

621 The Press, Christchurch, Newspaper article 'Trust worker willing to return to face sex-abuse charges' NZP0015057, p 1.

622 Letter from Brother Joseph Smith to Brother Brian O'Donnell, CTH0011833, p 8.

120. Within a number of days after the complaint at Hebron in May 1992, Brother McGrath was back in charge at Hebron and no safeguarding measures were in place.

121. Brother McGrath was removed from Aotearoa New Zealand three months later, on 13 August 1992. That removal was likely in response to an 11 August 1992 report of abuse against Brother McGrath in Australia. The Australian complaint resulted in the prompt dispatch of a brother from Sydney to collect Brother McGrath and bring him back to Australia.

Te mōhiotanga me te kawenga mō ngā tūkinotanga a te Rangapū me te Hāhi Katorika
Knowledge and accountability for abuse by the Catholic Church and the Order

Ngā reta i tuhia i te tau 1977 e whāwhākia ana ngā takakinotanga a Parata Moloney rāua ko Parata McGrath – me te korenga o te Rangapū i whakautu
Letters written in 1977 alleging abuse against Brother Moloney and Brother McGrath – the Order failed to act

122. The history relating to the 1977 opportunity to prevent harm has never been comprehensively told. As a result, the narrative that follows is detailed.

123. In April 1977, Brother O'Donnell approved Brother Moloney's nomination of Brother McGrath as sub-Prior of the Christchurch community.[623]

124. Brother O'Donnell gave a statement to police in June 2003, in which he referred to anonymous complaints of abuse he had received. His two interviews were in the context of police's Operation Authority investigation.[624] He told police about receiving a letter alleging Brothers Moloney and McGrath were abusing a boy at Marylands. He says that he received a second letter and that both letters were anonymous.[625]

125. Brother O'Donnell told police he considered the letters were "a malicious attempt to have the two brothers removed from the Christchurch community" and that he had destroyed them "because of the harm [the letter/s] could do".[626]

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[623] Letter to Brother McGrath from Provincial Brother John Gibson, CTH0011823, p 16.

[624] Statement of Brother Brian O'Donnell, NZP0027295 (NZ Police, undated), p 15.

[625] Transcript of teleconference between MAG, Br Brian O'Donnell and JXC, CTH0018408 (19 December 2016) p 6.

[626] Transcript of teleconference between MAG, Br Brian O'Donnell and JXC, CTH0018408 (19 December 2016) p 6.

126. Brother O'Donnell was asked further questions in 2016 about the letters he had destroyed. He told Catholic Church Insurers (Catholic Church Insurance Limited) and the Order's lawyer that: "I thought it was a trouble-causing letter. I didn't think it was based on fact and I thought it was members of staff at our school in Christchurch trying to get brothers moved on."[627] Brother O'Donnell did not explain why he assumed the allegations were false. He said that he did not interview either of the accused brothers, but that he did speak to Brother Moloney.[628]

127. On 3 September 1977 Brother O'Donnell telephoned Brother McGrath to tell him he was being transferred to Australia. Brother McGrath said this was a call "coming as a bolt in the dark."[629] It is likely that this call was made after Brother O'Donnell had received at least one of the anonymous letters, despite Brother O'Donnell later stating to police that he did not believe the allegations in the letters, and that the decision to move brothers away from Christchurch was due to a bad culture in the Community generally.

128. Brother Moloney departed Marylands for Singapore and to his Vatican posting on 13 September 1977.[630]

129. Brother O'Donnell says he flew to Christchurch within a month of receiving the first letter.[631] He says he received the second letter three to four weeks later.[632] The Order's house diary indicates that Brother O'Donnell arrived in Christchurch on 12 October 1977,[633] after Brother Moloney had departed for Rome. Brother O'Donnell says he took part of the letter with him to Christchurch to show Brother Moloney "in the hope we could identify, what I would call disguised handwriting".[634]

130. When Brother O'Donnell came to Christchurch, he took no steps to investigate the allegations. He told Catholic Church Insurance Limited: "I didn't speak with anybody, but I examined the rolls to try and find out the address, there was some kind of indication of the suburb … but I couldn't find any boy that had parents living in those addresses."[635]

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[627] Transcript of teleconference between MAG, Br Brian O'Donnell and JXC, CTH0018408 (19 December 2016) p 6.

[628] Transcript of teleconference between MAG, Br Brian O'Donnell and JXC, CTH0018408 (19 December 2016) p 7.

[629] Letter from Brother Brian O'Donnell to Reverend E. Brosnahan, regarding Brother Bernard McGrath making Solemn Profession, CTH0011823 (3 April 1975), p 13.

[630] House Diary for Marylands 1977–1993, annotated by High Court registrar as Exhibit No. 11 for R v Mcgrath, CRI-2004-008-2462, CTH0010252 (20 February 2006), p 63; and Job Sheet, Detective Paul Sullivan, New Zealand Police, Operation Authority, NZP0028228 (30 July 2003), p 1.

[631] Statement of Brother Brian O'Donnell, NZP0027295, p 15.

[632] Statement of Brother Brian O'Donnell, NZP0027295, p 15.

[633] 'House Diary' for Marylands,1977–1993, (20 February 2006), p 63.

[634] Statement of Brian Phillip O'Donnell, NZP0027743 (NZ Police, 11 June 2003), p 7.

[635] Transcript of teleconference between MAG, Br Brian O'Donnell and JXC, CTH0018408 (19 December 2016) p 7.

131. Brother O'Donnell says Brother Moloney concurred that it was: "a ridiculous kind of accusation to make against him given the sort of relationship that he had, he was very popular amongst the boys and just everything about his conduct was such that it seemed completely out of the blue and I think he concurred with me that it [allegations of sexual molestation] wasn't something that was substantial."[636]

132. After his visit to Christchurch, Brother O'Donnell wrote to Brother Moloney in Rome.

"I have just returned from Christchurch. ... I am sure you would be pleased to hear from me that, after careful enquiries into the allegations made in relation to Marylands, I am convinced they were completely unfounded. More than that, I am equally sure they are the work of a ruthless and vindictive member of the teaching staff. You need have no further concern about that matter. It is over and done with – although I will not be surprised to have a recurrence when it suits the person involved. ... It was good to hear your voice on the 'phone the other night."[637]

133. Brother O'Donnell said he never told Brother Moloney that he was the subject of an allegation. The contents of the letter quoted above are inconsistent with the suggestion that Brother Moloney was not informed that a complaint about him had been made. Brother O'Donnell has consistently advised he did not tell Brother Moloney and that the closure in this letter was "in respect of his responsibilities as Prior in Christchurch".[638]

134. It is unlikely that Brother O'Donnell spoke to Brother Moloney when he visited Christchurch in October 1977, because Brother Moloney had already departed for Rome. The letter quoted above provides an update that would not be necessary if Brother O'Donnell had in fact spoken directly with Brother Moloney in Christchurch.

135. Brother O'Donnell's failure to report that complaint is consistent with what he told police in 2002 about how abuse allegations were dealt with in his experience. His account to police revealed a pattern of allegations of abuse which resulted in the transfer of the relevant brother to another community (the geographic cure response). Earlier in his career he had verbally informed Provincial Lynch (in

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[636] Transcript of teleconference between MAG, Br Brian O'Donnell and JXC, CTH0018408 (19 December 2016) p 7.

[637] Letter from Brother O'Donnell to Brother Moloney, regarding Marylands allegations, CTH0010245 (24 October 1977), p 1.

[638] Statement of Brian Phillip O'Donnell, NZP0027743, p 7.

about 1963 to 1965[639]) that Brothers Berchmans (also known as Moynahan) and Donnellan had abuse allegations against them relating to Cheltenham in Australia. No written record of those allegations was made. Brother O'Donnell said those brothers were moved to another community, and also that the same pattern applied to the transfer of Brother Ephram Walsh (transferred from Cheltenham to Lillydale).[640]His experience was that the senior leader of the time made no record of the allegations and transferred relevant individuals. His reaction to the 1977 letters was the same – no safeguarding measures were put in place, police were not informed, and no steps were taken to seek out victims and provide them with support for the trauma they had experienced.

136. In correspondence during February 2020, Brother Timothy Graham discussed the letters destroyed by Brother O'Donnell in 1977:

> *"The letter sought the transfer of the brothers away from Marylands and cited incidents of alleged sexual misconduct as the basis for their transfer. The letter was anonymous, and no names were provided. It was determined that the allegations as set out in the letter could not be sustained and in the circumstances no further action was deemed appropriate."*[641]

137. Brother Graham made no mention of the fact the letters were destroyed or that he was relying on what Brother O'Donnell had said about the letters. There was no basis for his statement that the allegations could not be sustained, because there was no investigation.

138. Overlapping with the 1977 letter events are discussions in which Brother WW told police what had occurred. Brother WW said a teacher had approached him saying that Brother McGrath was abusing children.

139. He says that as he knew Brother O'Donnell was visiting in the near future, he waited to talk to Brother O'Donnell rather than speak to the Prior, Brother Moloney (because Moloney and McGrath were 'quite close friends').[642] Brother WW says he spoke with Brother O'Donnell about the allegations when he arrived and was told "leave it to me".[643]

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[639] Email correspondence between Philip Russell and Earle Borrell, NZP0012845, 11 September 2003, p 1.

[640] Statement from Brian O'Donnell to NZ Police regarding his life in the St John of God Order and knowledge of historical sexual abuse, NZP0012941 (NZ Police, 24 July 2003), p 6.

[641] Letter from Brother Timothy Graham (Provincial) regarding letters destroyed in 1977, CTH0008553 (20 February 2020) p 1.

[642] Police statement of Brother WW, NZP0011817, 26 June 2003, p 6.

[643] Police statement of Brother WW, NZP0011817, 26 June 2003, p 6.

140. Brother O'Donnell makes no mention of Brother WWs' voluntary disclosure of allegations about Brother McGrath during his October 1977 visit. Neither brother appears to have made a record of this further allegation about Brother McGrath.

141. A farewell function was held for Brother McGrath on 18 October 1977.[644] Dr Mulvihill told police in May 2002:

"I have been advised that Bernard McGrath was moved from Marylands in 1977 because of allegations of abuse. I believe Brian O'Donnell received a letter alleging serious misconduct by a brother at Marylands. ... I understand that [Moloney] organised for handwriting samples to be taken from the staff to establish the author's identity."[645]

142. Brother McGrath believes this was the reason for his transfer.[646]

143. As a result of the correspondence in December 1976[647] and August 1977[648], it appears that Brother Moloney's transfer to Rome had been put in place sometime before Brother O'Donnell travelled to Christchurch in October 1977. The allegations against Brother Moloney did not prompt Brother O'Donnell to make any changes to Brother Moloney's transfer to Rome.

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644 'House Diary' for Marylands,1977–1993, annotated by High Court registrar as Exhibit No. 11 for R v McGrath, CRI-2004-008-2462, CTH0010252 (20 February 2006).

645 Statement of Dr Michelle Mulvihill, consultant psychologist to St John order, NZP0012947 (NZ Police, 12 June 2003), p 2.

646 ABC Australia notes from sentencing of Brother McGrath, CTH0008331.

647 Letter from Prior Brian O'Donnell to Prior General Brother Pierluigi Marchesi, regarding Brother Moloney to join the community at the Vatican Pharmacy, CTH0012069 (10 December 1976).

648 Letter from Brother Rodger Moloney to Mr A E Hinton, Assistant Director General of Education, MOE0002325 (9 August 1977).

Te whakawhitinga mai o Parata DQ ki Aotearoa Niu Tīreni i te tau 1982, whai muri i ngā whakapae tūkino ki a ia i Ahitereiria
1982 transfer of Brother DQ to Aotearoa New Zealand, following abuse allegations against him in Australia

144. In 1982, when Brother DQ was at Yarra View, Lilydale in Victoria, Australia, two allegations of abuse by him were received by the Order.[649] Shortly after the second allegation, Brother DQ was transferred to the Christchurch community.

145. Brother DQ was at Marylands for a year. The Order's data shows that it has received two reports of abuse by Brother DQ in the 12 months he was at Marylands.[650] Another survivor has told the Inquiry he was abused by Brother DQ but did not report this to the Order.[651]

146. In early 1984, there was a report to Brother Leahy of abuse by Brother DQ at Marylands. Brother Leahy told police he advised Brother Tehan of the allegation and Brother DQ was then sent back from Aotearoa New Zealand to Australia for psychiatric intervention.[652] Brother Tehan told police that Brother Leahy told him of the allegation, but that it was Brother Leahy who transferred Brother DQ to Australia, with Brother Tehan only being asked for advice on psychiatric intervention.

147. There do not appear to be any written records made by either brother of the allegations made relating to Brother DQ's time at Marylands.

Te whakatau i te tau 1986 kia tukuna a Parata McGrath kia hoki ki Ōtautahi ki te whakahaere ā-tikanga kore nei i waenga o te hunga taiohi
1986 decision to let Brother McGrath return to Christchurch to operate unsupervised among young people

148. The Order has no record of why Brother McGrath was sent back to Christchurch in 1986. From the prosecutions of Brother McGrath in Australia, he was offending against boys in the care of the Order in Australia in the period 1977 to 1986.

149. There is no explanation of why Brother McGrath was permitted to reside outside of the monastery at Marylands while he was ministering at Hebron. The Code of Canon Law states "Observing common life, religious are to live in their own religious house and are not to be absent from it except with the permission of their superior. If it concerns a lengthy absence from the house, however, the major superior, with the consent of the council and for a just cause, can permit a member to live outside a house of the institute, but not for more than a year, except for

649 Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243.
650 Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243.
651 Witness statement of James Tasker, WITN0675001.
652 Te Rōpū Tautoko Marylands Briefing Paper 5, CTH0015243.

the purpose of caring for ill health, of studies, or of exercising an apostolate in the name of the institute". Brother McGrath's living arrangement usually required formal approval from Rome. The Inquiry has not seen any evidence that this occurred.[653]

150. Neither the Bishop nor the Order supervised Brother McGrath's activities. The evidence of Hanz Freller, and others, is that during Brother McGrath's time in New Zealand between 1986 and August 1992 (when he returned to Australia), the level of Brother McGrath's violence was intense.

151. The full extent of Brother McGrath's abuse at Hebron Trust in this period may never be known. However, after the Order's decision to transfer Brother McGrath back to Christchurch he went on to abuse numerous young people causing considerable harm and trauma.

Te Tariti o Hebron: Te korenga o rātou i whakautu 1992
Hebron Trust: Failures to act in 1992

Nawe mō Hebron 1992
1992 Hebron complaint

152. Brother O'Donnell's 2016 recollection was when allegations were made in Aotearoa New Zealand in 1992, they related to Marylands, not to the street kids' [Hebron] ministry.[654]

153. Brother Terry Tehan told the Order's Australian lawyer in 2000 that there was no documentary evidence to indicate the exact date the first complaint was made about Brother McGrath's activities in New Zealand.[655] Brother Tehan added "[h]owever it was made in late May 1992 to the then Provincial Joseph Smith by the outgoing Prior, Brother Basil Maltby. Apparently in the days before travelling to Sydney in May 1992 a complainant came forward to Brother Basil [Maltby] with a formal complaint."

154. On 17 May 1992, Brother McGrath and Brother Maltby travelled from Christchurch to Sydney to attend the Provincial Chapter.[656] That Chapter took place between 18 and 23 May 1992 at Marsfield and elected Brother Smith to the role of Provincial.[657]

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653 Code of Canon Law, The Holy See, last visited 01 April 2023, www.vatican.va/archive/cod-iuris-canonici/eng/documents/cic_lib2-cann607-709_en.html – at Can. 665 §1Z

654 Transcript of Makinson d'Apice Lawyers' interview of Brother Brian O'Donnell, CTH0018408, p 4.

655 Letter from Brother Terry Tehan to Howard Harrison, regarding Bernard McGrath's first complaint date, CTH0016507 (20 October 2000); and witness statement of Brother Timothy Graham, WITN0837001, para 173.

656 House Diary for Marylands 1977–1993, CTH0010252, p 62.

657 12th Provincial Chapter, 'Creating All Things New', Schedule of Provincial Leadership, Local Community Leaders, Formation, NZP0014216 (June 29, 1992).

155. Brothers O'Donnell's and Tehan's recollections are consistent with the possibility that an ex-student of Marylands had reported abuse to Brother Maltby (the then Prior) before members of the Order travelled to the Provincial Council in May 1992.[658]

156. Brother Smith's 2022 evidence is that he does not know how Brother Tehan reached those conclusions.[659]

157. Brother McGrath has said that at the 1992 Provincial Chapter, Brother Smith told him that "a complaint had surfaced in New Zealand about my behaviour, and I was directed to return there. That allegation pertained to me touching the genitals of a male person after giving his back a massage … I denied the allegation and it was subsequently withdrawn."[660]

158. Brother Smith says he does not recall being told about a complaint before or at the 1992 Provincial Council.[661] He says, however, that he was aware of the May 1992 report of abuse, recalling he was told by Brother Maltby.[662]

Whakapae tūkino, Mei 1992
May 1992 allegation

159. The Order's records indicate that the Hebron-related report of abuse by Brother McGrath was made when Brother McGrath was in Australia (his period of travel for the Provincial Council, being 17 to 26 May 1992).[663]

160. Sister Mary-Ellen McGuinness made notes of this complaint against Brother McGrath.[664] She says she returned from Australia on 24 May 1992 and at 8pm that evening a Hebron colleague requested an urgent meeting with her. Sister McGuinness says she was informed at that time of an allegation against Brother McGrath. They agreed to meet Anne McCormack, Director of Catholic Social Services, the next day. Brother McGrath had been under Anne McCormack's supervision in the early days of Hebron's activities. It is not known whether she was formally responsible for supervising Brother McGrath in 1992.

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[658] Transcript of Makinson d'Apice Lawyers' interview of Brother Brian O'Donnell, CTH0018408, p 6.

[659] Witness statement of Brother Joseph Smith, WITN1273001 (Royal Commission of Inquiry into abuse in Care, 27 May 2022) para 14.

[660] Redacted statement by Bernard McGrath for solicitors for Carroll & O'Dea (solicitors) acting for the St John of God Brotherhood, CTH0018406 (14 March 1997) p 5 para 13.

[661] Witness statement of Brother Joseph Smith, WITN1273001 (Royal Commission of Inquiry into abuse in Care, 27 May 2022) para 7.

[662] Witness statement of Brother Joseph Smith, WITN1273001 (Royal Commission of Inquiry into abuse in Care, 27 May 2022) para 13.

[663] Statement of Andrew Downs, regarding allegations of abuse against Bernard McGrath and Dave Watts, CTH0012292 (17 July 2002), p 2; Witness statement of Andrew Downs, WITN0766001 (Royal Commission of Inquiry into Abuse in Care, 4 October 2021) para 66.

[664] Notes made by Sister Mary-Ellen McGuinness, regarding allegations against Brother Bernard McGrath, CTH0014213 (undated), pp 1–3.

161. On 25 May 1992, Sister McGuinness, her colleague and Anne McCormack met. Anne McCormack advised that a meeting should be called, and staff advised, advising that "a person is innocent until proven guilty".

162. Brother McGrath returned to Christchurch on 26 May 1992.[665]

163. On 26 May 1992, there was a Hebron staff meeting where they were informed of the allegations. Brother McGrath was not present. Sister McGuinness read out her prepared notes.

> *"There is no evidence and I want each of you to remember that a person is innocent until that person is proved – and I underline the word proved – guilty. The person involved in this allegation is Bernard. The allegation is sexual assault. Now from the beginning I want each person here to treat this matter as highly confidential matter for the following reasons: -*
>
> *A person's good name is at stake.*
>
> *That person is also the Director.*
>
> *Hebron's (the young people's) good name is at stake.*
>
> *Your jobs depend on Hebron's good name.*
>
> *This is a time of support of Hebron, of Bernard, of each other.*
>
> *It is not a time for assumptions, for gossip, for imagining possibilities, or for talking amongst ourselves even.*
>
> *A second reason for confidentiality is that tomorrow, next week, next month, next year, this could be you or me.*
>
> *Please protect Hebron as you would wish to protect your family, yourself. Hebron (young people) and Bernard are important to each of us.*
>
> *They are our bread and butter.*
>
> *They are our vocation and our community.*
>
> *They are our friend.*
>
> *We care about Bernard and we care about Hebron."*[666]

164. Sister McGuinness stepped into the acting Director role for Hebron Trust on 26 May 1992.

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[665] House Diary for Marylands 1977–1993, CTH0010252, p 62.

[666] Notes made by Sister Mary-Ellen McGuinness, CTH0014213, pp 1–3; and Hebron Briefing Paper No. 2, Summary of funding and costs associated with redress, EXT0015580 (29 January 2021) para 42.

165. Sister McGuinness then met with Brother McGrath that same day. She received assurances from Brother McGrath "that he was not guilty".[667]

166. Mr Lee Robinson says in his witness statement that Brother McGrath came into his offices in approximately May 1992, without an appointment, and said there had been allegations of sexual abuse against him from people who were working at Hebron Trust.[668] Mr Robinson says he provided some professional advice to Brother McGrath in respect of this disclosure, but that because of client confidentiality and legal privilege, he cannot disclose what advice he gave Brother McGrath. Mr Robinson has not said whether he advised the Order of the allegation. If he did, the Order has not provided to the Inquiry any advice received at the time or its instructions to Mr Robinson.

167. By 26 May 1992, 48 hours after the allegation was received by a senior leader at Hebron Trust, there is no evidence that consideration had been given to reporting the allegation to police. The Inquiry has not seen anything to suggest a focus on supporting the person who had come forward with the disclosure. Sister McGuinness' messaging to staff focused on protecting Hebron and Brother McGrath's reputation. Andrew Downs told us the staff were told: "there were people in this town who would defend Bernard to the end, including gang members, and therefore if we spoke out, lives would be taken."[669]

168. Sister McGuinness' notes record that on 28 May 1992 Brother McGrath advised her he had met with Barry Leach, as Sister McGuinness had recommended who had told Brother McGrath "next week he should just carry on as normal". Brother McGrath resumed as Director on 28 May 1992, four days after Sister McGuinness and three days after Anne McCormack became aware of the allegation against him. This was a critical point of failure by Sister McGuinness, Anne McCormack and Brother Smith – both in his role as Provincial and as trustee of the Trust.

169. Brother McGrath remained in ministry and in control of Hebron's activities. The Inquiry has seen no evidence of safeguarding of the rangatahi who had contact with Brother McGrath through Hebron Trust.

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[667] Multiple documents, including Sister Mary-Ellen McGuinness's summary of events throughout the 1992 McGrath abuse allegations at Hebron Trust, further includes memorandum sent to Hebron staff to inform of allegations, CTH0014213 (1992-1993), p 1.

[668] Witness statement of Lee Robinson, WITN0836001, para 70.

[669] Witness statement of Andrew Downs, WITN0766001 (Royal Commission of Inquiry into Abuse in Care, 4 October 2021), para 53.

170. Sister McGuinness says that on 29 May 1992 she asked a colleague to see the complainant and "ask if he was going ahead with the allegations".[670] The reason for asking such a question is not explained, although it may be that there was an indication at the time that the accusation would be withdrawn. It appears the question was not answered at this time.

Hune ki te Tīhema 1992
June to December 1992

171. Sister McGuinness says she updated Anne McCormack on 2 June 1992.[671] There are no records of that discussion available to the Inquiry.

172. On 4 June 1992, Sister McGuinness had a colleague ask the complainant if he wanted to continue his allegations against Brother McGrath, or did he want to withdraw them.[672] She states the complainant decided to withdraw them.[673]

173. On 11 June 1992, the Hebron complainant signed a document addressed to Brother McGrath withdrawing his complaint.[674] Brother McGrath was the only person present with the complainant when he signed the form.[675]

174. Sister McGuinness advised staff that the allegations against Brother McGrath were withdrawn and asked staff not to talk about it because "there were two reputations at stake".[676] The Inquiry believes Sister McGuinness was referring to the reputation of Hebron Trust and Brother McGrath.

175. Brother Smith was the Provincial during this period. Evidence from his May 2022 witness statement is that nothing needed to be done in response to the complaint, because it was withdrawn.[677] He states that he thought the complaint withdrawal was legitimate and responded on that basis. The reasons for considering the withdrawal of the allegation as legitimate are not explained by Brother Smith.[678]

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[670] Multiple documents, including Sister Mary-Ellen McGuinness's summary of events throughout the 1992 McGrath abuse allegations at Hebron Trust, further includes memorandum sent to Hebron staff to inform of allegations, CTH0014213 (1992–1993), p 2.

[671] Multiple documents, including Sister Mary-Ellen McGuinness's summary of events throughout the 1992 McGrath abuse allegations at Hebron Trust, further includes memorandum sent to Hebron staff to inform of allegations, CTH0014213 (1992–1993), p 2.

[672] Multiple documents, including Sister Mary-Ellen McGuinness's summary of events throughout the 1992 McGrath abuse allegations at Hebron Trust, further includes memorandum sent to Hebron staff to inform of allegations, CTH0014213 (1992–1993), p 2.

[673] Multiple documents, including Sister Mary-Ellen McGuinness's summary of events throughout the 1992 McGrath abuse allegations at Hebron Trust, further includes memorandum sent to Hebron staff to inform of allegations, CTH0014213 (1992–1993), p 2.

[674] Letter from Mr JA to Brother Bernard McGrath, regarding withdrawing his complaint, CTH0011926 (11 June 1992), p 1.

[675] Notes made by Sister Mary-Ellen McGuinness, CTH0014213, p 1–3.

[676] A witness statement, previous employee of Hebron Trust, NZP0015005 (NZ Police, 19 October 1992), p 4.

[677] Witness Statement of Brother Joseph Smith, WITN1273001 (Royal Commission of Inquiry into Abuse in Care, 27 May 2022), para 17.

[678] Witness Statement of Brother Joseph Smith, WITN1273001, para 16–17.

176. On 22 June 1992, a probation officer requested a visit to discuss the allegations. Employees of the State appear to have been aware of the allegation but, again, no records appear to exist. Sister McGuinness records that the probation officer felt "the steps I had taken were correct".[679]

177. Brother Timothy Graham says that there was a second individual who made a complaint to Hebron staff in June 1992, but that the Order holds "almost no" information about this complaint.[680]

178. It is possible that by this point in time (June 1992) there had been three complaints against Brother McGrath in Aotearoa New Zealand:

- A complaint to Prior Maltby relating to Marylands (made before travel to the May Provincial Council).
- The May initial complaint to Hebron staff (made while Brother McGrath was in Australia at the Provincial Council, withdrawn in suspicious circumstances).
- A June 1992 complaint to Hebron.

179. On 22 July 1992 the Provincial, Brother Smith, and Jim Cleary arrived in Christchurch to "view the brothers' ministries in Christchurch and meet co-workers".[681] Sister McGuinness stated: "Brother Joseph arrived from Sydney and expressed concern for Bernard regarding his health."[682] Other than this brief comment, there are no documents recording the purpose of the visit or Brother Smith's activities or conversations during this visit. Records were either never made or they were not retained.

180. There is reference in the State's documents to police making an approach to Hebron Trust in August 1992 but not taking any formal action.[683] Neither Hebron nor the police have provided any documents relating the cause or outcome of any such approach at that time.

181. On 8 or 9 August 1992, Brother Smith told the Provincial Council that Brother McGrath was "planning to withdraw from Hebron and was preparing to take time for renewal".[684] The brief record means the Inquiry cannot ascertain whether the Provincial Council was told about the May and June 1992 reports of abuse against Brother McGrath. Brother Smith says that he does "not accept that the minutes

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[679] Notes made by Sister Mary-Ellen McGuinness, CTH0014213, p 1–3.

[680] Witness statement of Brother Timothy Graham, WITN0837001, para 174; and Statement of Andrew Downs, CTH0012292, p 2.

[681] House Diary for Marylands 1977-–993, CTH0010252, p 63.

[682] Notes made by Sister Mary-Ellen McGuinness, CTH0014213, p 1–3.

[683] Report to Minister for Social Welfare from NZ Community funding agency, regarding Bernard McGrath and accountability for Hebron Trust, ORT0006888 (undated) paras 4.1–4.2. Police made approaches to Hebron in August 1992, but did not take formal action.

[684] Provincial Council Minute regarding Brother Bernard McGrath, CTH0012028 (8-9 August 1992), p 1.

of 8 and 9 August indicate that the Order was sweeping the May 1992 allegation about McGrath under the carpet" because "there was no live complaint against McGrath at the time".[685]

182. On 11 August 1992, an Australian complainant contacted Brother Smith and made an allegation of abuse by Brother McGrath at Kendall Grange.[686] A different approach was adopted in relation to the Kendall Grange complaint, in that, Brother Smith made and kept notes and the complainant was offered counselling immediately.[687] There is no explanation of why Brother Smith did not adopt the same approach for Hebron Trust complaints.

183. On 12 August 1992, Brother Smith advised Brian Lucas, a member of the Australian Special Issues Committee, of the Australian allegation against Brother McGrath. It is not known whether Brian Lucas was also informed of the Aotearoa New Zealand allegations at this time. Brother Smith told his Provincial Council that Brother Julian would go to Aotearoa New Zealand to withdraw Brother McGrath immediately. Brother Julian was instructed to inform Brother McGrath and withdraw him, inform the community, inform Sister McGuinness and request she take over Hebron temporarily, and "Investigate previous allegation again in NZ of last few weeks".[688] Brother Smith says he is not sure why he wrote the comment that there had been a recent allegation, and assumes he was referring to the May 1992 report of abuse.[689]

184. In Brother McGrath's absence, Sister McGuinness temporarily stepped in as Director of Hebron Trust and told Hebron staff that Brother McGrath's travel back to Australia was because he was burnt out and sick with cancer. Staff also understood that Brother McGrath was getting treatment for alcohol and drug abuse.[690]

185. There is no evidence of any investigation into the May and June 1992 Aotearoa New Zealand reports of abuse, whether by the Order or Hebron Trust. Nor is there any evidence the Order informed the Christchurch Bishop of those reports of abuse.

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[685] Witness statement of Brother Joseph Smith, EXT0020043 (Royal Commission of Inquiry into Abuse in Care, 27 May 2022) para 24.

[686] Letter from Paul Gamble to Carroll & O'Dea, regarding a disputed allegation of sexual abuse against Brother McGrath, CTH00016413 (16 February 2001), p 1.

[687] Handwritten notes by Brother Joseph Smith titled 'Special Issues', recording process of responding to allegations of abuse against Brother Bernard McGrath, CTH0012039_00064 (11–13 August 1992), p 1–6.

[688] Handwritten notes by Brother Joseph Smith titled 'Special Issues'CTH0012039_00064, p 1–6.

[689] Witness statement of Brother Joseph Smith, WITN1273001 (Royal Commission of Inquiry into Abuse in Care, 27 May 2022), para 12.

[690] Witness statement of Andrew Downs, WITN07660001 (Royal Commission of Inquiry into Abuse in Care, 4 October 2021), para 46.

186. Brian Lucas advised Brother Smith to tell Brother McGrath:

"Allegations have been made, you do not need to give me any details, there is an official Protocol that is fair & just for everyone concerned (so no problems like USA arise[)]. Brian is the official contact person. Dangerous for B to return to N.Z."

187. There is no clarification of why it was considered 'dangerous' for Brother McGrath to return to Aotearoa New Zealand. In not requiring any details related to the allegations, the Order was preventing itself obtaining any information relevant to providing support and redress to Brother McGrath's survivors.

188. On 13 August, Brother Julian took Brother McGrath to Australia.[691] It will never be known how many victims were abused (or abused again) by Brother McGrath in Christchurch in the three-month window of inaction between May and August 1992. He stayed in the Burwood community, and there are no records of any safeguarding measures or restrictions in place. Other brothers were told "B needs time aside, is under pressure"[692] instead of being told he was accused of abuse. Brother Smith's 2022 evidence states that on arrival to Australia, he immediately placed Brother McGrath in Burwood Psychiatric Hospital.[693]

189. Hebron Trust did not advise the Community Funding Agency or Children and Young Person Services of Brother McGrath's removal from Aotearoa New Zealand at this time or the reasons for it.[694] A 1993 briefing to the Minister of Social Welfare concluded: "The Trust appear to have been less than candid, in that there appears to have been knowledge of the incidents [plural] whilst the Agency [NZCFA] undertook the new approval process with the then Acting Director."[695]

190. Brother Smith's handwritten notes relating to the Kendall Grange complaint, include:

"Brother Smith advised the Australian complainant that Brother McGrath was being removed from his work and had agreed to come back to face the allegation, which would be dealt with through an independent investigation."[696]

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691 House diary for Marylands 1977-1993, CTH0010252, p 63.

692 Handwritten notes by Brother Joseph Smith titled 'Special Issues', CTH0012039_00064, p 4.

693 Witness statement of Brother Joseph Smith, WITN1273001 (Royal Commission of Inquiry into Abuse in Care, 27 May 2022) para 32.

694 Letter from the NZ Community Funding Agency to the Minister of Social Welfare, recording that Police made approaches to Hebron in August 1992, but did not take formal action, ORT0006888, (undated), para 4.2.

695 Letter from the NZ Community Funding Agency to the Minister of Social Welfare, ORT0006888, (no date), para 6.1.

696 Handwritten notes by Brother Joseph Smith titled 'Special Issues', CTH0012039_00064, p 1–6.

191. There is no evidence an independent investigator was appointed to investigate the Australian complaint. Knowledge that Brother McGrath was accused of abuse in two countries did not prompt the Order to seek out people abused by Brother McGrath.

192. On 15 August, Brother Smith, Brother McGrath and Brian Lucas met in Sydney where Brother McGrath "told his story".[697] The Order has not produced any notes of what was disclosed by Brother McGrath at that meeting. Brother Smith's notes simply say: "B told his story and had confession with Fr David. Brian Lucas suggested I go to Lawyers by myself and retell story. B not up to it and requires treatment immediately."[698]

193. Brother Smith's 2022 evidence is that he "did not sit in on the interview and am unable to comment on what was said".[699] That statement is completely inconsistent with Brother Smith's contemporaneous note recording that he went to the lawyers to 'retell' Brother McGrath's story. The Order has not produced its lawyer's record of the meeting with Brother Smith, which could be expected to confirm the level of detail Brother Smith conveyed following the meeting involving Brian Lucas.

194. The Order moved Brother McGrath from Sydney to Jemez Springs, a treatment centre in New Mexico USA on 25 August 1992.[700]

195. Brother Graham confirmed that within a month of the 11 August 1992 Kendall Grange complaint, the Order entered into a settlement with the person abused by Brother McGrath at that facility (Deed signed on 9 September 1992).[701] There is no evidence the Order carried out an independent or internal investigation before entering into the settlement with the Australian complainant. Yet Brother Graham told ABC reporter Nial Fulton on 20 February 2020 that when Brother Smith became aware of this allegation in August 1992: "Br McGrath [was] withdrawn from the community and the allegations were investigated internally."[702]

196. Hebron Trust received conditional approval as a Child and Family Support Service under s396 of the Children, Young Persons and Their Families Act 1989 on 20 October 1992.[703]

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697 Witness statement of Brother Timothy Graham, WITN0837001, para 176(d).
698 Witness statement of Brother Joseph Smith, 27 May 2022, WITN1273001 para 33.
699 Witness statement of Brother Joseph Smith, 27 May 2022, WITN1273001 para 33.
700 Witness statement of Brother Timothy Graham, WITN0837001, para 179.
701 Witness statement of Brother Timothy Graham, WITN0837001, para 178.
702 Email from Brother Timothy Graham to Nial Fulton, regarding removal of Brother Bernard McGrath from the community following allegations of abuse, CTH0008553 (20 February 2020), p 1.
703 Report to Minister for Social Welfare from NZ Community funding agency, regarding Bernard McGrath and accountability for Hebron Trust, ORT0006888 (undated) para 3.1.

I te tau 1992 i whakatakotoria tētehi nawe ōkawa ki te Rangapū mō Parata McGrath
In 1992 a formal complaint was made to the Order about Brother McGrath

197. One of Hebron Trust staff gave a statement to police on 16 October 1992 about disclosures of abuse by the May 1992 complainant.

198. On 17 November 1992, Brother Smith advised the Servants of the Paraclete at Jemez Springs, New Mexico, that there was a further allegation of abuse against Brother McGrath relating to the Order's facility at Morriset (Australia) in 1982/83.[704] The Order notified its insurers in December 1992 of a report to police of abuse against Brother McGrath at Hebron Trust.[705] The insurer's document records that the Provincial (Brother Smith) "informed Bishop Meeking of Christchurch of the situation, along with the Order's solicitor in New Zealand, Mr Lee Robinson".

199. The Order's December 2021 abuse data provided to the Inquiry does not include a December 1992 report of abuse against Brother McGrath.

200. The Inquiry has not received any records from the Order or the Bishop regarding the nature of the abuse disclosed at this time and the planned responses. Records were either not made or not retained.

201. There is no explanation of the intended role of the Bishop in relation to the complaint to police of abuse by a member of the Order. The Inquiry notes that, despite the Bishop being informed, he reported to the Vatican: "the male religious in this diocese are reasonably sound although not well off for vocations." [706]

202. The Inquiry has not been provided with any evidence that the Order investigated the Aotearoa New Zealand December 1992 report of abuse.

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[704] Letter from Brother Joseph Smith to Peter Lechner, Director of Jemez Program, regarding Bernard McGrath's treatment summary at Jemez Springs, CTH0011886 (17 November 1992), p 77.

[705] Letter from Paul Gamble to Carroll & O'Dea, regarding a disputed allegation of sexual abuse against Brother McGrath, CTH0015170_00002 (16 February 2001), p 2.

[706] Diocese of Christchurch Responses to Questionnaire for the Quinquennial Report, CTH0000120 (April 1993), pp 1–29.

Ngā whanaketanga a Te Tarati o Hebron i te tau 1993
Hebron Trust developments during 1993

203. Brother McGrath was to be discharged from Jemez Springs on 28 June 1993.[707] However, news of civil claims of abuse by Brother McGrath at Kendall Grange surfaced in early July 1993[708] which led to Jemez Springs agreeing that Brother McGrath could stay there[709], and later an offer of a six-month rehabilitation programme in Apple Valley, San Bernadino, USA.[710]

204. On 4 August 1993, Hebron Trust's Director Cathy Harrison[711] told Brother Smith that another Hebron client had disclosed inappropriate behaviour by Brother McGrath.[712] Brother Smith advised Cathy Harrison to arrange appropriate counselling for the person reporting abuse and that Jim Cleary would "follow up during visit next week to N.Z." Cathy Harrison was also advised to contact Lee Robinson regarding the allegations. The Inquiry has not received any records of the steps taken by Jim Cleary in relation to this further report of abuse. It appears it was not investigated by Hebron Trust or the Order. The Hebron client was encouraged by a social worker at the Trust to disclose the abuse to police, which he did in October of 1993. The social worker also arranged for counselling for him.

205. Brother Smith and Brother McGrath signed an agreement on 1 October 1993 that Brother McGrath would stay at Jemez Springs for another week and if prosecution was imminent, he would return to Australia or Aotearoa New Zealand as directed by Brother Smith, and that irrespective of police involvement, if media was involved, he must return as directed by Brother Joseph.[713]

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[707] Letter from Peter Lechner to Brother Joseph Smith, regarding Brother Bernard McGrath treatment progress, CTH0011897 (28 June 1993), pp 1–6; File note: Peter Lechner, Director of Jemez Program, summary of Brother Bernard McGrath's treatment, NZP0014808 (undated), p 4.

[708] A statement of claim including the Trustees of the Hospitaller Brothers of St John of God, CTH0012032_00014 (4 July 1993), pp 1–6.

[709] Letter from Brother Joseph Smith to Peter Lechner, CTH0011886, p 77.

[710] Letter from Brother Stephen de la Rosa to Brother Joseph Smith, regarding proposal that Brother Benard continue his program at Apple Valley, USA, CTH0012039_00025 (2 July 1993), p 1

[711] Handwritten notes from Brother Joseph Smith regarding phone call with Cathy Harrison (Hebron Trust), concerning inappropriate behaviour allegation against Bernard McGrath, CTH0012039_00017 (4 August 1993) p 1.

[712] Handwritten notes from Brother Joseph Smith regarding phone call with Cathy Harrison (Hebron Trust) concerning inappropriate behaviour allegation against Bernard McGrath, CTH0012039_00017 (4 August 1993) p 1.

[713] Signed agreement between Brother Joseph Smith and Brother Bernard McGrath, regarding McGrath's return to Australia or New Zealand, NZP0014796 (1 October 1993) p 1.

206. On 3 October 1993, the Order's Aotearoa New Zealand lawyer, Mr Lee Robinson, sent a press statement on behalf of the Order to Bishop Cunneen, inviting the Bishop's comment.[714] The second sentence of the press statement reads:

"As soon as these allegations [against McGrath] arose the Order took immediate steps to remove the person concerned from the programme on which he was working. He underwent hospitalisation in Australia for treatment and has since been undergoing specialist medical treatment in the USA."

207. The Order and its lawyer prepared and circulated a press statement which appears to misrepresent the true sequence of events as known to them.

208. On 4 October 1993, Mr Lee Robinson contacted police to "discuss the situation".[715] That same day there was a meeting between the Community Funding Agency and Hebron and a subsequent review of Hebron's complaint and staff grievance procedures.[716]

209. The Christchurch Press article published on 6 October 1993 included that Hebron Trust had confirmed that "up to four allegations had been made against the staff member [McGrath] by young people in its care, although no charges were laid".[717] The Press reported that an unnamed person on behalf of Hebron Trust had confirmed that the trust "had conducted its own investigations and been in touch with appropriate agencies".[718] The Inquiry is not aware of any evidence to support that statement.

210. The same media article confirmed that Brother Smith had travelled to Aotearoa New Zealand and confirmed that Brother McGrath, whom he described as a 'worker' (not a brother), was willing to return to Aotearoa New Zealand to face charges "if necessary".[719] He said the Order had not been trying to hide anything when it arranged for the 'worker' to go overseas. He stated: "the agency's prime

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[714] Annotated facsimile of Press Statement from the Order regarding their awareness of abuse allegations and subsequent actions, CTH0020736 (3 October 1993) p 2.

[715] Witness statement of Peter Read on post-hearing matters for Marylands hearing, WITN0838004 (Royal Commission of Inquiry into Abuse in Care, 7 April 2022) para 3.1(g).

[716] Letter from NZ Community Funding Agency to the Minister of Social Welfare, regarding the historic involvement with Hebron Trust and the Trust's actions since Bernard McGrath's abuse became known, ORT0006888, 4 February 1993, p 3.

[717] Sarona Iosefa, 'Trust worker willing to return to face sex-abuse charges', The Press, (6 October 1993) NZP0015057 (6 October 1993).

[718] Sarona Iosefa, 'Trust worker willing to return to face sex-abuse charges', NZP0015057 (6 October 1993).

[719] Sarona Iosefa, 'Trust worker willing to return to face sex-abuse charges', NZP0015057 (6 October 1993).

concern was the young people in its care and the worker's health."[720] There is no evidence available to the Inquiry that supports the statement that the Order's primary concern between May 1992 and October 1993 had been for the needs of the young people abused by Brother McGrath.

211. Sergeant Lew Corbett publicly confirmed on 6 October 1993 that police were still reviewing the file, but that there had been "reduced priority during the year because the alleged offender had left the country".[721] In this regard, the Order's decision to remove Brother McGrath from Aotearoa New Zealand adversely affected the criminal justice processes.

212. Sister McGuinness took a copy of the signed 11 June 1992 withdrawal of complaint to police on 14 October 1993.[722]

213. Media reported on 15 October 1993 that three Hebron Trust workers had quit because of the Trust's insistence on staff silence on sexual abuse. Director Cathy Harrison is reported as being shocked at the staff allegations and stating that the allegations "were damaging to the Trust's work, its staff and clients".[723] Also, on 15 October 1993, the Order received a report of abuse by Brother McGrath by an ex-Marylands pupil.[724]

214. After the media reports on 15 October 1993, the Director of Hebron (Cathy Harrison) and Anne McCormack approached the Community Funding Agency to notify the (1992) allegations.[725] The Community Funding Agency understood that Cathy Harrison had notified the Children and Young Persons Service at this time.[726] The Inquiry has not been provided with records of that notification.

215. Hanz Freller made a statement to police on 21 October 1993, however, he did not feel comfortable to disclose the full extent of the abuse.[727]

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[720] Sarona Iosefa, 'Trust worker willing to return to face sex-abuse charges', NZP0015057 (6 October 1993).

[721] Sarona Iosefa, 'Trust worker willing to return to face sex-abuse charges', NZP0015057 (6 October 1993).

[722] Police statement of Sister Mary-Ellen McGuinness, NZP0015011, NZ Police, (13 October 1993).

[723] Sarona Iosefa, 'Workers quit over action on abuse claims', The Press, (15 October 1993), NZP0015053.

[724] A witness statement, WITN1090001, (Royal Commission of Inquiry into Abuse in Care, 25 February 2022), para 1.8

[725] Report to Minister for Social Welfare from Ann Clark (NZ Community Funding Agency), regarding Bernard McGrath and accountability for Hebron Trust, ORT0006888 (undated) p 2.

[726] Report to Minister for Social Welfare, ORT0006888 p 2.

[727] Witness statement of Hanz Freller, WITN0516001, (Royal Commission of Inquiry into Abuse in Care, 3 May 2021) para 5.9.

216. Brother McGrath returned to Aotearoa New Zealand on 29 November 1993.[728] On 6 December, accompanied by his lawyer, he signed an admission of guilt to an agreed Summary of Facts.[729]

217. Brother McGrath was sentenced on 23 December 1993 to three years imprisonment.

Ka utua a Parata McGrath e te Rangapū i tana whakawāteatanga
Order makes payments to Brother McGrath in 1996 when he exits

218. In 1996, after Brother McGrath had been released from his vows and left the Order, the Order considered Brother McGrath's 'exit payment'. A payment of $45,000 to $50,000 was considered, with further payments for therapy and the legal costs of defending an Australian claim.

219. Brother Graham confirmed that the Order has a practice of making payments to brothers who leave the Order, because they have no independent resources. He also confirmed that the Order makes no distinction between brothers leaving after a criminal conviction for sexual abuse or leaving for different reasons.[730]

Ka whakamōhiotia te Minita Tari o te Ora mō ngā hāmene a Parata McGrath
Minister of Social Welfare informed about Brother McGrath charges

220. After Brother McGrath was charged by police in late 1993, the Community Funding Agency (that had been funding Hebron Trust), provided a report to the Minister of Social Welfare.[731] The report identifies: "The St John of God (Brother Bernard's superiors) withdrew Brother Bernard immediately and escorted him to Sydney where he was hospitalised. At the time he was considered to be physically and mentally burnt out."[732]

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[728] Witness statement of Peter Read on post-hearing matters for Marylands hearing, WITN0838004 (Royal Commission of Inquiry into Abuse in Care, 7 April 2022) para 3.1(j).

[729] Witness statement of Peter Read on post-hearing matters for Marylands hearing, para 3.1(k).

[730] Witness statement of Brother Timothy Graham, WITN0837001 (Royal Commission of Inquiry into Abuse in Care, 28 September 2021) para 88.

[731] Report to Minister for Social Welfare, ORT0006888 p 2.

[732] Report to Minister for Social Welfare, ORT0006888 p 3.

Whakaputanga Pāpāho, ka whakahoungia e te Rangapū āna rautaki hei whakautu i ngā whakapae tūkino
Media coverage, and the Order revises its approach to abuse claims

221. The Boston Globe's January 2002 reporting on how the Catholic Church had allowed abuse by former priest John Geoghan to continue, was the first time the church's policy of moving priests accused of sexual abuse to new parishes without notifying authorities, was made public. Following on from this, in mid-2002, media reports highlighting abuse by the Order and how badly it had responded to those abused, appeared in Australasia.

222. In June 2002, media reports critical of the Order's handling of abuse claims appeared on both sides of the Tasman. On 13 June 2002, Melbourne newspaper The Age reported the Order had settled a class-action claim by 24 victims, all with "some form of communication or intellectual disability". A settlement of AUD$3.6 million was agreed, with settlements ranging from AUD$100,000 to AUD$400,000.[733]

223. Two days later, the paper published another story about the anonymous whistle-blower, a lay employee of the Order, who revealed the settlement.[734] The whistle-blower was alarmed to learn that a survey of 80 intellectually disabled men in the Order's care showed signs of sexual abuse.[735]

224. On 22 June 2002, Christchurch newspaper The Press reported that five individuals from Marylands had received settlements totalling $300,000 over sexual abuse by four brothers, and that all five complainants had been "muzzled with confidentiality clauses".[736] Brother Burke issued a media statement decrying the use of "secrecy clauses" in settlement agreements and vowing it would "never again" happen, an assurance that would prove untrue.[737] Christchurch's Bishop John Cunneen also issued a press statement, in which he expressed shock at the allegations, but expressed discontent for the media's continual focus on "the abuse from the few" in the Order, while ignoring the integrity of the many.[738]

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[733] Submission of Brother Timothy Graham on behalf of the Hospitaller Order of Saint John of God to the Victorian Parliamentary Inquiry into the Handling of the Child Abuse by Religious and Other Non-Governmental Organisations, CTH0016381_00001 (26 April 2013), p 5.

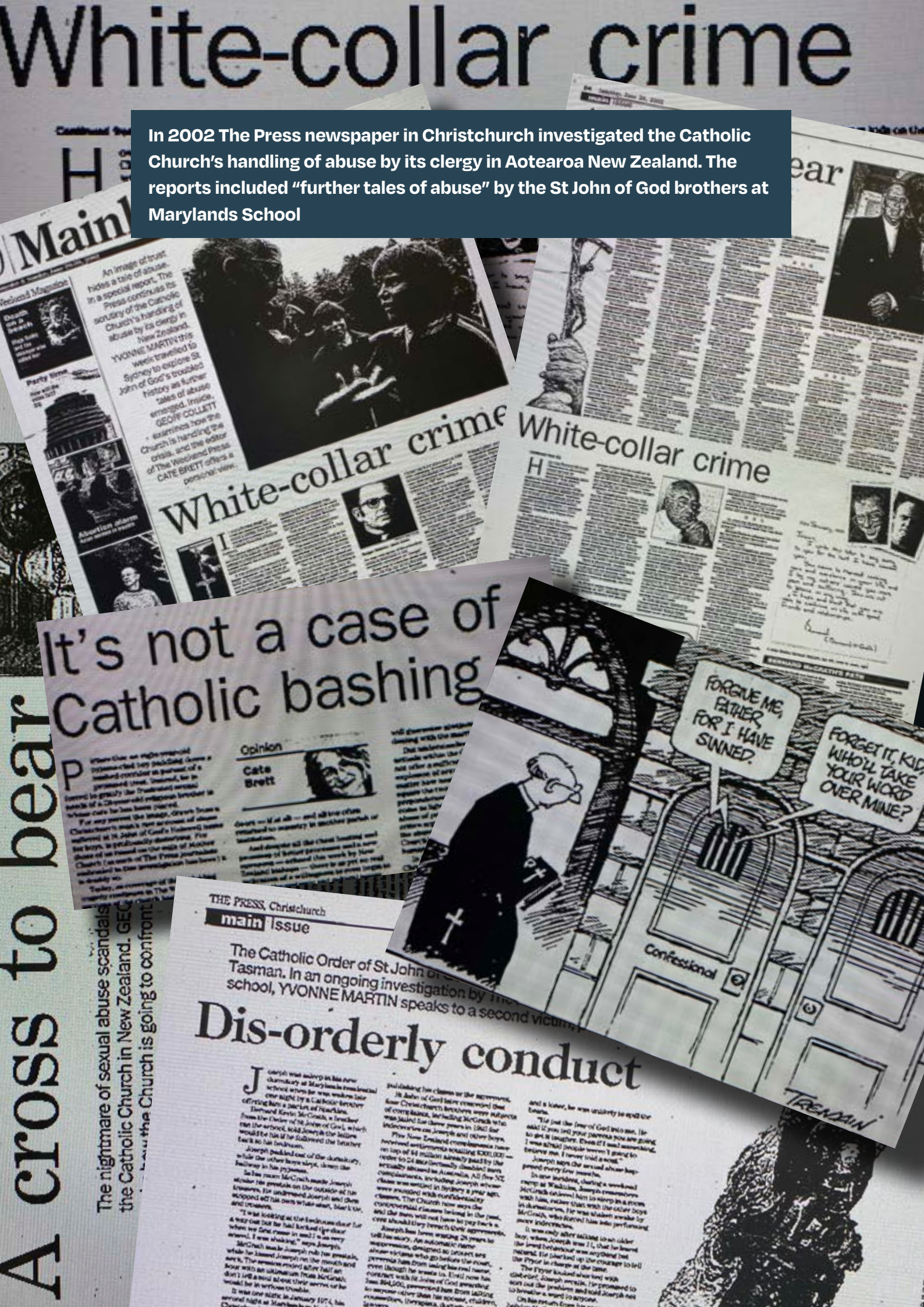
[734] Murray Mottram, 'How a fighter brought St John of God to order' The Age, ORT0003556_00002, p 1–2.

[735] Murray Mottram, 'How a fighter brought St John of God to order' The Age, ORT0003556_00002, p 1–2.

[736] Yvonne Martin, 'Dis-Orderly conduct', The Press (22 June 2002). MSC0008455.

[737] Media statement from Brother Peter Burke, regarding the use of "confidentiality clauses" in settlement agreements, CTH0016713 (20 June 2002), p 2.

[738] Response from Bishop John Cunneen to Geoff Collett, Christchurch Press, regarding the 2002 reports of abuse by brothers of the Order of St John of God, CTH0014204_00027 (28 June 2002), para 27.


White-collar crime
In 2002 The Press newspaper in Christchurch investigated the Catholic Church's handling of abuse by its clergy in Aotearoa New Zealand. The reports included "further tales of abuse" by the St John of God brothers at Marylands School
White-collar crime
White-collar crime
It's not a case of Catholic bashing
Opinion
Cate Brett
FORGIVE ME, FATHER, FOR I HAVE SINNED.
FORGET IT, KID. WHO'LL TAKE YOUR WORD OVER MINE?
Confessional
THE PRESS, Christchurch
main issue
Dis-orderly conduct
A cross to bear
The nightmare of sexual abuse scandals
the Catholic Church in New Zealand.

225. A subsequent story by The Press said 11 further complainants had come forward in the 10 days since its first article. This prompted the Order to set up a free-phone number for others who might come forward.[739] It reported that Brother Burke was adamant the Order knew nothing about Brother McGrath's offending before a complaint surfaced in February 1992.[740] He said another brother or brothers might have known about the abuse at the time and could have been party to similar offences,[741] but added this "would have been very secret information among a certain group of people, therefore the Order itself would not have known".[742] However, as set out, the Order was indeed aware of sexual abuse by brothers at Marylands before The Press published its stories.[743]

226. The media coverage and many complaints that followed it did, however, mark a distinct change in the way the Order responded to allegations of abuse. After June 2002, the Order offered complainants the option of the church's abuse-handling protocol, known as A Path to Healing, or the Order's "pastoral process". The Order did not produce any external publication describing this new process, nor are we aware of any complainants receiving documents explaining the difference between the two approaches so they could make an informed decision about which to choose.

227. The heart of the new process was direct contact between the complainant, Brother Burke (as Australasian head of the Order) supported by Dr Michelle Mulvihill, a clinical psychologist who worked from 1998 to 2007 to help the Order respond to sexual abuse claims. Brother Burke and Dr Mulvihill met survivors in person. Brother Burke told them he believed their allegations, and encouraged them to report the abuse to police. Brother Burke sent complainants a letter after the meeting reiterating these points and making an offer of an interim "pastoral payment", not "compensation", for which there was no need to sign any agreement. Accepting such an offer did not therefore mean full and final settlement of a claim.[744] There were no confidentiality clauses either. Brother Graham is critical of this aspect of Brother Burke's pastoral process.[745] He later instigated a more legalistic process to settle the claims of survivors.

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[739] Yvonne Martin, 'White-collar crime', The Press, NZP0012607 (29 June 2002) p 1.

[740] Yvonne Martin, White collar crime, NZP0012607, p 1. Noting this is an earlier date than the May 1992 date the Order now says it received a complaint relating to Brother McGrath. The Inquiry has not received any evidence regarding the earlier complaint in February 1992 referred to in the media article.

[741] Yvonne Martin, White collar crime, NZP0012607, p 1.

[742] Yvonne Martin, White collar crime, NZP0012607, p 1.

[743] See for example, Letter from Sir Rodney Gallen, R Cathie, CTH0012238_00012 (5 March 2003) p 2; Transcript of McGrath hearing, MSC0007496_00004, p 206.

[744] Witness statement of Brother Timothy Graham, WITN0837001, para 248. Brother Graham told us he was critical of this aspect of Brother Burke's pastoral process, arguing it should have required deeds of release in favour of the Order once a negotiated outcome was reached.

[745] Witness statement of Brother Timothy Graham, WITN0837001, para 248.

228. Brother Burke sought a meeting with Bishop Cunneen to discuss how he might be able to help the Order deal with the growing number of complainants coming forward with allegations. As far as Dr Mulvihill was aware, there had been no word from the bishop throughout this time, despite all the publicity, much less any offer of assistance or support. She said it was Brother Burke who wanted to meet the bishop to "talk with him about where to from here for people in the diocese".[746] Although Dr Mulvihill did not attend the meeting, she was waiting nearby and recalls that:

"The Bishop of course had his own agenda, and Brother Burke left that meeting absolutely furious. I remember him storming out of the place and we kind of galloped down the street at a very fast pace and found a coffee shop. He was very upset. The Bishop had basically told him that he wanted this matter shut down as fast as possible. 'Get it out of the media, there's too much going on in the papers, shut this down and shut these people up.'"[747]

[746] Transcript of evidence of Dr Michelle Mulvihill from the Marylands School public hearing, TRN0000414 (Royal Commission of Inquiry into Abuse in Care, 14 February 2022), p 38 pp 314.
[747] Transcript of evidence of Dr Michelle Mulvihill, TRN0000414, p 21 pp 297.

229. The December 2002 Pastoral Process document, prepared by Brother Burke and Dr Mulvihill, recognised that survivors "require re-assurance they will not be abandoned again and that the Province will give them 'new' hospitality'".[748] The Prior General in Rome was to be "kept informed about the progress, so that the Provincial receives support at that level".[749] Experts on the assessments of damages were to be "called in to indicate monetary values on complaints".[750] Importantly, the process required that pastoral relationships were to be formed and "we [the Order] do not run away and abandon these people once more when a deed of release has been signed".[751] It also emphasised that the Order would offer help with counselling "for as long as is professionally recommended".[752]

230. Brother Burke told survivors the initial pastoral offer "is not, repeat is not, the end of the matter" and assistance with counselling would continue "for as long as is professionally recommended".[753] He promised survivors the pastoral process included "the development of an ongoing relationship" which is one that "does not end".[754]

231. By August 2002, Brother Burke, assisted by Dr Mulvihill, had met 54 complainants – 29 of whom had made statements to police – and arranged meetings with 18 more.[755] By March 2003, the Order had made 56 pastoral payments totalling about $4 million.[756]

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[748] Guidelines for Brothers of St John of God in Australia, New Zealand and Papua New Guinea in Implementation of "Towards Healing", Policies & Procedures of the Province Professional Standards Committee (PPSC) Draft 4, CTH0015049 (September 1997), p 8.

[749] Guidelines for Brothers of St John of God in Australia, New Zealand and Papua New Guinea, CTH0015049, p 8.

[750] Guidelines for Brothers of St John of God in Australia, New Zealand and Papua New Guinea, CTH0015049, p 9.

[751] Guidelines for Brothers of St John of God in Australia, New Zealand and Papua New Guinea, CTH0015049, p 9.

[752] Newsletter from Brother Peter Burke for victims going through the St John of God pastoral process (5 August 2003), CTH0015149, p 47.

[753] Newsletter from Brother Peter Burke, CTH0015149, p 47.

[754] Memorandum 'The Pastoral Process' from Brother Peter Burke, CTH0012238_00023 (undated).

[755] Hospitaller Order of St John of God Professional Standards Committee Minutes, regarding the steps taken in response to the complaints of abuse at Marylands School, CTH0012250 (14 August 2002), p 3.

[756] Hospitaller Order of St John of God Professional Standards Committee Minutes, CTH0012250, p 9. Payments were made with funding borrowed from the Catholic Development Fund.

Ka tohua a Tā Rodney Gallen e te Rangapū kia arotakengia te tukanga whakatau mō ngā purapura ora o ngā tūkinotanga
Sir Rodney Gallen engaged by Order to audit its settlement process for survivors of abuse

232. In November 2002, Sir Rodney Gallen agreed to the Order's request to audit the way it had implemented the pastoral process to ensure it was fair and just.[757] The Order made it clear his role was to audit the process, not the outcomes of the process, and in particular not the adequacy of payments.[758] Sir Rodney reported back in March 2003 that the Order had acted appropriately and responsibly in implementing the pastoral process.[759] The following were among his observations:

- Brother Burke and Dr Mulvihill had concluded early on that cross-references between complainants were more than sufficient to corroborate allegations.
- The importance of survivors being told they are believed could not be overstated and that he considered "the indication that was said was accepted, both at interview and by subsequent correspondence, was important and appropriate".
- Letters of apology and "intention" did not amount to an inappropriate attempt to settle.
- The lump sums offered to claimants were on the basis there was no pressure to accept the sum offered and the offer was not made by way of full and final settlement or in circumstances where it might later be alleged that any claim had been settled.
- He had no part in assessing the sums offered, but it was appropriate to make an immediate offer.
- The Order had made no attempt to cover up offending.

[757] Letter from Sir Rodney Gallen to R.H. Cathie, regarding agreement to the Order's request to audit the way it had implemented the pastoral process, CTH0015888 (9 November 2002), p 2.
[758] It appears reports of abuse were categorised, with pastoral payments of $65,000 being offered to one group of survivors and $120,000 offered to the other group. There is no evidence on the reasons for those levels of payments. Refer to Letter from Sir Rodney Gallen to R.H. Cathie, CTH0015888, p 2.
[759] Letter from Sir Rodney Gallen to R Cathie, enclosing a general report on the redress process undertaken by the Order of St. John of God, CTH0012238_00012 (5 March 2003), p2.

233. On three occasions, Brother Burke subsequently misrepresented Sir Rodney's role. In November 2002, he wrote to a survivor saying that Sir Rodney Gallen would "review everything we have been doing to make doubly sure that what we do offer you next February-March is, in fact, in your best interests."[760] This suggested Sir Rodney was advising on an outcome that was in that survivor's best interests, but this was not his role.

234. In March 2003, Brother Burke wrote to survivors saying he had sought advice on the process from Sir Rodney and KPMG "before making this offer".[761] This suggested that Sir Rodney's view influenced the amount of the offer.

235. Finally, in August 2003, he wrote in a newsletter to survivors that "a large number of cases have been put forward to Sir Rodney Gallen. Then, once Sir Rodney approved them, each of those men were made Pastoral Offers."[762] Again, this linked the making of offers after approval by Sir Rodney Gallen.

236. In addition, the Order's Aotearoa New Zealand lawyer, Mr Robinson, told survivor Mr DG's lawyer in November 2002 that Sir Rodney Gallen had been appointed as an independent mediator and "any such claims and determinations will be independently assessed by Sir Rodney Gallen before conclusions are reached".[763]

237. All these statements created the impression Sir Rodney Gallen had endorsed each payment offered, which was not the case.

Ketuketutanga a ngā pirihimana, kāore e tika ana ngā tukanga tiaki ahurea 2002/2003
Lack of culturally appropriate processes during 2002/2003 police investigation

238. Of the 58 individuals who reported abuse at Marylands during Operation Authority, 43 were recorded as Pākehā, four were recorded as Māori and the ethnicity of the remaining 11 complainants was unknown. Police stated: "ethnicity was not always recorded in the formal statements of those who made reports of abuse."[764]

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[760] Letter from Brother Peter Burke to unnamed survivor, regarding the consideration by Sir Rodney Gallen in the settlement, CTH0012238_00011 (29 November 2002) p 1.

[761] Letter from Brother Peter Burke to Mr CB, regarding offer of financial settlement to ex-Marylands student, Mr CB, NZP0015922 (14 March 2003).

[762] Newsletter from Brother Peter Burke to survivors, regarding details of the financial settlements process set out, CTH0012247 (3 August 2003), p 1.

[763] Letter from Saunders Robinson to D Russell, notifying appointment of Sir Rodney Gallen as an independent mediator, CTH0014526 (8 November 2002), p 1.

[764] Witness statement of Detective Superintendent Peter Read, NZP0042570, 5 August 2021, para 3.6

239. Police told the Inquiry it is now recognised that barriers to reporting abuse, accessing help and engaging with police, exist for communities that have historically been marginalised, including Māori and Pacific communities. Detective Superintendent Peter Read said:

"Recognising these barriers has contributed to the change in process whereby Police now involve agencies to help with culturally appropriate engagement.

... In today's environment Police can seek assistance and support for victims from specialist iwi and ethnicity-based support agencies that cater to different cultural needs of victims during investigation processes and court cases."[765]

240. There were failures to incorporate principles of te Tiriti o Waitangi and tikanga Māori in engagement.

"The principles of te Tiriti and tikanga Māori were not explicitly part of Operation Authority's engagement with complainants, including Māori complainants. All investigators on Operation Authority were Pākehā."[766]

241. In response to questions from the Inquiry about consideration given to the impact of abuse in terms of either Māori or Pacific cultural norms and values, Detective Superintendent Peter Read stated: "I am not aware of explicit consideration of the impact of abuse from a tikanga Māori perspective, or in terms of Pacific peoples' cultural norms and values, as part of this role."[767]

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[765] Witness statement of Detective Superintendent Peter Read, NZP0042570, 5 August 2021, paras 7.1-7.2.

[766] Witness statement of Detective Superintendent Peter Read, NZP0042570, 5 August 2021, para 7.9.

[767] Witness statement of Detective Superintendent Peter Read, NZP0042570, 5 August 2021, para 9.2.

Ngā wheako o ngā purapura ora hauā i te punaha manatika
Disabled survivors' experiences of justice system

242. Of the 58 individuals who reported abuse at Marylands during Operation Authority, 21 or 22 indicated in their formal statements that they had a disability.[768] Police did not keep any systematic data on the nature of those disabilities,[769] nor did they call in specialists to help them communicate with complainants who had a disability.[770] Communication assistants and navigators in the criminal justice system were not in place at the time of the investigation or the trials.

243. In some instances, police did not lay charges because of a complainant's learning disability. In one instance, police said a complainant had difficulty separating his real-life experiences from what he saw on television, and his evidence was not therefore sufficiently reliable for his case to proceed.[771] A caregiver who accompanied the complainant to a police station confirmed he would confuse what he had seen on television with reality, and a job sheet concluded: "He would in no way be a credible witness given the fact that he confuses reality with television."[772]

244. Of the 21 complainants who had been recorded by police as having a disability, charges were laid for 18 of them. Detective Superintendent Read considered that a complainant's disability could have an "indirect impact" on consideration by police and the Crown of whether a complainant would give evidence at trial, and whether charges could be laid. He stated:

"The test is always whether the possible charge meets the Guidelines. Disability may impact in some circumstances on both the evidentiary test and the public interest test. If disability affected a witness's ability to recall and describe the offending, that would impact on the assessment of whether a matter met the evidentiary test. Where a prosecution is likely to have a very significant negative impact on a complainant, that factor may weight [sic] against laying a charge.

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768 Second witness statement of Peter Read, WITN0838002, paras 3.8 and 5.2.

769 Transcript of evidence of Peter Read from the Marylands School public hearing, TRN0000416 (Royal Commission of Inquiry into Abuse in Care, 16 February 2022), p 54–55 pp 520–521.

770 Second witness statement of Peter Read, WITN0838002, para 2.18.

771 Witness statement of Peter Read, WITN0838001, para 2.8(d)(i) and second witness statement of Peter Read, WITN0838002, para 4.9.

772 NZ Police Jobsheet, Detective R M Emerson, NZP0030333 (NZ Police, 24 October 2003), p 2.

Disability may in some circumstances be relevant to assessing the possible impact of a prosecution on a complainant. On the other hand, the seriousness of offending will be aggravated where the offending is against a vulnerable victim. Disability will often mean a victim is more vulnerable, and so this factor may also weight [sic] in favour of laying a charge."[773]

245. For some disabled complainants who did give evidence, they or their caregivers said the courts failed to take account of their disability or allow them to have caregiver support while giving evidence. They also said the courts made no allowance for their disability during cross-examination and were too quick to disallow their evidence rather than providing appropriate support. The sister of one disabled complainant – whose evidence was subsequently disregarded as unreliable – said she watched her brother give evidence on the stand and was struck by how convincing and animated he was when describing the sexual assaults:

"He was on the stand and proceeded to gesture with his hands that he was anally penetrated; it was not a soft gesture, it was aggressive and violent. I was a bit taken aback. Throughout … his evidence, I was so proud of him getting up there and doing it, but I felt that he was unprotected and looked so vulnerable. I desperately wanted to be up there with him. We were not allowed to be together beforehand, due to suggestibility and contamination of evidence, but I do think that if I had been able to assist him with his evidence, it would have led to a better outcome. I know how to communicate with him and can help him articulate his thoughts."[774]

246. She said the judge told the jury to set aside her brother's evidence because his intellectual disability meant he was open to suggestibility. She said her brother would become very agreeable when put under pressure or when he felt stressed:

"Any propositions put to him would have meant he would have just said 'yes' and not answered the question properly. If I had been there with him, helping him answer the questions, I believe his answers would have been true."[775]

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[773] First witness statement of Peter Read, WITN0838001, para 4.7.
[774] Witness statement of Ms DN, WITN0870001, paras 3.56–3.57.
[775] Witness statement of Ms DN, WITN0870001, para 3.58

247. She gave evidence herself at the trial, and she said the defence lawyer for Brother Moloney was "quite bullying".[776] He accused her of "trolling for money" and asked why they had waited so long to come forward.[777] She described him as "quite nasty and humiliating" in his manner.[778] Ken Clearwater said he was very upset that Brother Moloney was acquitted on 16 of the 23 charges he faced, and he believed there would have been guilty verdicts on every charge if the survivors had not been disabled.[779]

248. At the trials of Brothers McGrath and Moloney each complainant had to give their evidence about the abuse they suffered from the witness box to a courtroom full of strangers. The protections now commonly used to assist sexual complainants give evidence in alternative ways were not used, such as audio visual links from outside the courtroom, or the use of screens so the witness did not have to confront their perpetrator. Communication assistants were not involved. While those protections were not common place in the mid-2000s when these trials were held, the police and Crown prosecutors did not proactively apply for such directions from the court.

249. Detective Superintendent Read agreed it could be difficult for disabled people to get a fair hearing because criminal trials depended on clear communication, an ability to handle cross-examination, and an understanding of complex procedures in court that can move very quickly.[780] He also said the system did not serve victims of sexual abuse, whether disabled or not. He discussed various potential solutions including having one specially trained person to ask questions of all witnesses, whether for the prosecution or the defence, using written questions that are first reviewed by the presiding judge to make sure that they are not offensive, or having a separate sexual violence court or a separate disabilities court.[781]

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[776] Transcript of evidence of Ms DN, TRN0000411, p 97 pp 95.
[777] Transcript of evidence of Ms DN, TRN0000411, p 98 pp 96.
[778] Transcript of evidence of Ms DN, TRN0000411, p 98 pp 96.
[779] Second witness statement of Ken Clearwater, WITN0649002 (Royal Commission of Inquiry into Abuse in Care, 28 January 2022), para 38.
[780] Transcript of evidence of Peter Read, TRN0000416, p 57 pp 523.
[781] Transcript of evidence of Peter Read, TRN0000416, p 57 pp 523.

Ka whakatakaroatia tā te Rangapū tukanga manaaki i ngā purapura ora
Order's pastoral process for survivors put on hold

250. The prosecution of Brother McGrath prompted the Order to declare in December 2003 that its pastoral process would consider "no matters, new or old, … until the conclusion of the criminal case next year".[782] The decision was made by the Order's Professional Standards Committee, whose members included Brother Burke and Dr Mulvihill.

251. During the depositions hearing for Brother McGrath's case in 2004, Brother Burke said he stopped the pastoral process after being notified of proceedings against other brothers in Australia and hearings against other brothers in Aotearoa New Zealand.[783] In 2006, he told the High Court the Order halted the process because his legal advisors told him it would not be in the Order's interests, or those of police, to continue it.[784] Detective Superintendent Read told us he was unaware of any suggestion police had asked the Order to halt the process, saying whether the process continued or halted would have been immaterial to the investigation.[785] The most likely explanation was the one given under oath by Brother Burke to the High Court, namely, that the Order halted the process on the advice of its lawyers, who said it would be in the Order's interests to do so. To our knowledge, the Order never asked Sir Rodney Gallen whether he considered this step to be appropriate.

252. In February 2004, two months after reaching the decision, the Order made the decision public.[786] Brother Burke made a formal statement that the Order would restart the process once Brother McGrath's trial was over.[787] He also wrote to many survivors telling them he could no longer meet them because it might be seen as interfering in the criminal justice process.[788] In the meantime, some survivors found their counselling and treatment abruptly cut off.[789]

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[782] Hospitaller Order of St John of God Professional Standards Committee Minutes, CTH0012250, p 16. The decision was reaffirmed by the committee in 2004.

[783] Evidence of Peter Burke at Deposition hearing, MSC0008037, p 9 pp 34.

[784] Transcript of McGrath hearing, MSC0007496_00004, p 210.

[785] Transcript of evidence of Peter Read, TRN0000416, p 47 pp 513.

[786] Newsletter from Brother Peter Burke, CTH0015149, p 52.

[787] Newsletter from Brother Peter Burke, CTH0015149, p 52.

[788] Letter from Brother Peter Burke (Provincial) regarding Marylands, CTH0017947 (3 February 2004).

[789] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, paras 792, 805, 806.

253. The 'pause' was still in place when Brother Graham replaced Brother Burke as Provincial in March 2007, nearly a year after Brother McGrath's conviction. Brother Graham was opposed to aspects of the pastoral process run by Brother Burke and Dr Mulvihill. Despite the assurances given to survivors that the pastoral process would be re-started, this never happened. Brother Graham instigated a much more formal process that appeared to provide less support to victims.

254. Dr Mulvihill said the Order's failure to honour its promise to try to rebuild a pastoral relationship with survivors amounted to a "secondary injury", the first being the abuse at Marylands, Hebron Trust or the orphanage and the second being the breach of trust caused by broken promises of help. She said the Order made a promise to "try and restore their dignity and give them help", only to abandon them a second time: "I saw that happen over and over again sadly in the coming years."[790] Brother Graham was highly disparaging about Dr Mulvihill's criticisms of the Order. In August 2007, he told the Prior General, Brother Donatus Forkan, that he would have no qualms about suing Dr Mulvihill for defamation if she continued her criticisms.[791]

Ka tonoa e te Rangapū tētehi arotake, e whakawhāiti mai ana ki te tukanga whakatakoto nawe
Order commissions review, which is confined to complaints process

255. When the Order's Oceania senior members gathered for their four-yearly meeting in Australia in March 2007, they elected Brother Graham Provincial, and at the same time also elected at least two brothers facing sexual abuse allegations to its Provincial Council. One of those elected at that time, Brother John Clegg, was convicted in 2015 in Australia on 11 charges of sexual abuse.

256. Their election to the council prompted Dr Mulvihill to write to Brother Forkan in Rome the following month expressing deep reservations about this development.[792] Bishop Michael Malone, chair of the Australian Bishops Committee for Church Ministry, also wrote to Brother Forkan that month. He said Brother Burke had confirmed to him that two newly elected councillors had been accused of sexual abuse. Bishop Malone said the men's election was a "disturbing matter" and suggested an apostolic visitation authorised by the Congregation for Institutes of Consecrated Life would provide an "independent and authoritative evaluation" of how the Order was being run and could be improved.[793]

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[790] Transcript of evidence of Dr. Michelle Mulvihill at Marylands School public hearing, TRN0000414 (Royal Commission of Inquiry into Abuse in Care, 14 February 2022) p 26, pp 302.

[791] Letter from Reverend Michael Malone to Brother Donatus Forkan, regarding Apostolic Visitation of the SJOG Australian Province, CTH0019383 (10 April 2007), p 3.

[792] Letter from Dr Michelle Mulvihill to Prior General Brother Donatus Forkan, regarding concerns about sexual abuse allegations against recently elected members, EXT0018237 (2 April 2007), p 1–2.

[793] Letter from Reverend Michael Malone to Prior General, Brother Donatus Forkan, regarding widespread culture of sexual abuse amongst members of the Australian Province of the Brothers of St John of God, CTH0018360 (10 April 2007), p 2.

257. In May 2007, Brother Graham met Brother Forkan in Rome, and they agreed that a so-called audit of the abuse allegations would be preferable to an apostolic visitation.[794] Brother Graham's reasons for this were "a properly conducted audit resulting in much more detailed and better researched information than could be expected from an apostolic visitation".[795]

258. In June 2007, the media in Aotearoa New Zealand reported that Dr Mulvihill was calling for the Order to be shut down. Dr Mulvihill told the Inquiry that soon after she went to The Press newspaper, she received an official letter from Lyndsay Freer, the spokesperson for the Catholic Church, accusing her of bringing "disapprobation" to the Catholic Church. Dr Mulvihill told the Inquiry that she responded by stating:

> *"It was not I bringing disapprobation, but those men belonging to the St John of God Brothers (and their protectors) who had sexually, physically, emotionally, spiritually and psychologically abused little boys who were in their care in Marylands School."*[796]

259. Brother Graham wrote a letter to two brothers of the Order who were not members of the Oceania province in advance of their meeting with the Congregation for Institutes of Religious and Apostolic Life.[797] The meeting was to discuss "the situation of the Order and the Province in connection with the allegations of abuse". Brother Graham's letter enclosed "some background information about the situation" in the province to help with discussions at the meeting. The Inquiry requested the Order provide a copy of this letter. They did not do so, advising they had searched without success for it.[798] This failure of record-keeping prevented us from scrutinising information Brother Graham wanted the meeting to consider.

260. The provincial chapter resolved to set up an independent audit of all aspects of the "abuse issue", including how the Order handled it and what measures should be put in place to ensure "these matters do not arise again".[799] However, the review commissioned by Brother Graham was confined to merely examining the Order's 'complaints management process'. Sydney consultancy firm Westwood Spice conducted the review and produced a report in September 2008.[800]

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[794] Letter from Brother Timothy Graham to Prior General Brother Donatus Forkan, regarding articles in the press accusing the Province of inadequate responses to allegations of abuse, CTH0019368 (25 June 2007), p 1.

[795] Letter from Brother Timothy Graham to Prior General Brother Donatus Forkan, CTH0019368, p 1.

[796] Witness statement of Dr Michelle Mulvihill, WITN0771001 (Royal Commission of Inquiry into Abuse in Care, 15 September 2021), para 162.

[797] Letter from Brother Timothy Graham to Brother Rudolf Knopp and Brother José Maria Chavarri, CTH0019369 (5 July 2007).

[798] Email from Simpson Grierson (16 June 2022).

[799] Letter from Dr Michelle Mulvihill to Prior General Brother Donatus Forkan, EXT0018237, pp 1–2.

[800] Westwood Spice Report, Report on St John of God Review of Complaints Management Process, CTH0015183 (26 September 2008), pp1–57.

261. Many brothers who spoke to Westwood Spice denied anything untoward had ever happened. They expressed disappointment the Order had settled claims made in Victoria. They regarded the claims as spurious and the claimants as lacking the capacity to complain independently. They considered the settlement a betrayal.[801] Mr AR, a former brother said there was a general sense of denial: "I thought the denials and the excuses were just crazy. These guys were guilty as hell, but they could not admit to it."[802] He said that when Dr Michelle Mulvihill came in to run workshops on the issue of sexual abuse, many of the brothers considered her teachings an absolute affront – "how dare she".[803]

262. Brother Graham sent a copy of the report to Brother Forkan, along with a draft letter of response.[804] In the draft prepared for his superior to send back to him, he wrote:

"I have been pleased to note that this conclusion of this independent review is that the management process was 'substantially sound' and (generally) 'conducted with the utmost good faith and best intentions'."[805]

263. Brother Graham intended the Westwood Spice report to be the first phase of the audit, and "future phases will be determined on the information and experience of this first module."[806] However, no further work was done, including any analysis of the causes of the abuse.

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[801] Westwood Spice Report, CTH0015183, p 11.

[802] Witness statement of Mr AR, WITN0901001 (Royal Commission of Inquiry into Abuse in Care, 26 April 2022) para 7.18.

[803] Witness statement of Mr AR, WITN0901001, para 7.18.

[804] Letter from Brother Timothy Graham to Brother Donatus Forkan, enclosing the final Westwood Spice Report, CTH0019372 (10 October 2008).

[805] Letter from Brother Timothy Graham to Brother Donatus Forkan, enclosing a letter of response to the Westwood Spice Report, CTH0019375 (19 December 2008), p 1.

[806] Letter from Brother Timothy Graham to Brother Donatus Forkan, providing an update on the management of the professional standards issues, CTH0019366 (10 October 2008), p 1.

Ka whakahokia e te Rangapū te matatapu, te whakakapinga whakamutunga o ngā whiti mō ngā whakataunga
Order reinstates confidentiality, full-and-final settlement clauses

264. After Brother Graham took over from Brother Burke, the Order resumed a new, more stringent redress process. According to Brother Graham, many brothers were unhappy that the pastoral process had "a total victim focus".[807] He considered the perpetrators were "secondary victims" and that "justice and compassion [have] been actively denied" to perpetrators.[808] He was also critical of the decision not to require complainants to sign a deed of settlement acknowledging that a payment was without any admission of liability and a full and final settlement of all claims.

265. In August 2008, he wrote to Brother Forkan that he was "quite angry" that Brother Burke and Dr Mulvihill had "refused to bother themselves" with deeds of settlement, and this decision had left the Order unnecessarily exposed legally. He wrote: "I really am getting really tired with New Zealand and the issues involved there!!!!"[809] He explained: "as predicted, some people who were paid out under the Burke-Mulvihill model are now coming back through unscrupulous lawyers to receive more money."[810]

266. Under Brother Graham's leadership, the Order has responded to most abuse claims through its Australian lawyers. Claimants must sign a deed of settlement, and an independent lawyer must certify that he or she has advised the claimant before the deed is signed. Brother Graham has also reinstated the practice of adding clauses that require the terms of the settlement not to be disclosed, dropped by the Order in June 2002.[811]

267. Brother Graham has also approved settlements to brothers sexually abused by other brothers. One such settlement was to Brother McGrath, who, in October 2008, sought compensation for the abuse he had been subjected to by Brother Moloney and Brother Berchmans.[812] In 2009, Brother Graham suggested a maximum payment of AUD$250,000 towards what he called the 'Bernard McGrath project'.[813] In February 2012, Brother Graham approved a payment to Brother McGrath of NZD$100,000. The terms of settlement were confidential,

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[807] Letter from Reverend Michael Malone to Brother Donatus Forkan, CTH0019383, p 2.

[808] Letter from Reverend Michael Malone to Brother Donatus Forkan, CTH0019383, p 2.

[809] Letter from Brother Timothy Graham to Brother Donatus Forkan, enclosing a copy of a video documentary on Bernard McGrath, CTH0019367 (2 April 2009).

[810] Letter from Brother Timothy Graham to Brother Donatus Forkan, CTH0019367 (2 April 2009).

[811] Transcript of evidence of Brother Timothy Graham for the Marylands public school hearing, TRN000415, (Royal Commission of Inquiry into Abuse in Care), 15 February 2022, p 71.

[812] Letter from Brother Bernard McGrath to Brother Timothy Graham, regarding sexual abuse by Brother Rodger Moloney and Brother Berchmans Moynahan, CTH0011944 (23 October 2008).

[813] Letter from Brother Timothy Graham to Lee Robinson of Saunders Robinson Brown, regarding the maximum budget and purchase of a house for the "Bernard McGrath Project", CTH0016522 (11 September 2009).

and we were given no documents by the Order that would explain the basis for a payment of this size, or why the payment was higher than many of his victims received.[814] Brother Graham's evidence did not indicate that there were any planned changes to the Order's approach to redress, or reasons for any planned changes. It is understood that the Order has entered into a shared services arrangement with the Marist Brothers, but that final authority for any redress to survivors (in respect of alleged abuse by St John of God Brothers) rests with the St John of God Brothers.[815]

268. In Ms Cooper's meetings with the Marist Brother's lawyers in March 2022 (being the same lawyer who had acted for the Order, Mr Harrison of Carroll & O'Dea), Mr Harrison and his colleague raised technical legal issues relating to the Limitation Act, Accident Compensation and proof issues, especially in relation to Hebron Trust-related claims. Ms Cooper was advised that payment levels would be made on the basis of "perceived litigation risk".[816]

269. The Order's settlement documentation now requires survivors to warrant that all material and/or relevant acts, facts, and circumstances, including "all abuse suffered by [the survivor] at any time has been disclosed and forms part of the claim". This approach does not acknowledge that survivors often incrementally disclose the abuse they suffered. In addition, the settlement deeds include confidentiality clauses, which the Order has previously said would not be required.[817] Ms Cooper's view is that the payment offers are now lower than payments to others abused by the Order and who received payments before the Inquiry's Marylands hearing.[818]

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[814] Deed of Release between Brother Bernard McGrath and the Trustees of the Hospitaller Order of St John of God and Brother Timothy Graham, regarding the ex-gratia payment to Brother Bernard McGrath, CTH0011956 (no date), p 5.

[815] Updating witness statement of Sonja Cooper, Sam Benton and Caitlin Rabel on behalf of Cooper Legal – relating to redress for historic abuse in state and faith-based care, WITN0831087 (Royal Commission of Inquiry into Abuse in Care, 9 December 2022), para 57.

[816] Updating witness statement of Sonja Cooper, Sam Benton and Caitlin Rabel on behalf of Cooper Legal, WITN0831087, para 63.

[817] Updating witness statement of Sonja Cooper, Sam Benton and Caitlin Rabel on behalf of Cooper Legal – relating to redress for historic abus in state and faith-based care between, WITN0831087 (Royal Commission of Inquiry into Abuse in Care, 9 December 2022), para 72.

[818] Updating witness statement of Sonja Cooper, Sam Benton and Caitlin Rabel on behalf of Cooper Legal, WITN0831087, para 65.

Kāore te Rangapū e hiahia ana ki te hahu ake i ngā pirautanga o ngā mahi tūkino
Order uninterested in getting to root cause of abuse

270. Until very recently, the Order has shown no interest in determining why there have been so many sexual abusers within its ranks in the Oceania province. When pressed, Brother Graham has given various explanations, always without any evidence or analysis. In August 2007, he said sexual abuse within the Order was "largely attributable to the lack of appropriate psycho-sexual assessment and formation of candidates".[819] In May 2012, he characterised the problem to the Victorian Inquiry as being a number of brothers who operated independently.[820] Brother Graham wrote to the Prior General in Rome where he stated that it wasn't a widespread or systemic problem at all, but rather the result of actions by "a small number of religious and ex-religious" within the province who were responsible for a "significant betrayal" of its reputation.[821]

271. Brother Graham, when questioned by the Inquiry as to why the Order had not conducted any independent investigation into why Marylands was the centre of such high rates of abuse, stated that their focus had been: "...trying to respond to those victims that are coming forward."[822] When pressed, Brother Graham acknowledged that it would have been a positive step to investigate the reasons for the high rates of abuse within the Order: "so that this can never happen again."[823]

272. In further evidence to the Inquiry, Brother Graham conceded that the Order inadequately responded to some allegations of abuse and that:

"The Order recognises that this was wrong. We profoundly regret the abuse that was allowed to happen both because this system was in place and because fundamentally inadequate responses were taken at the time to allegations of abuse".

However, the takeaway message from Brother Graham was that the systems in place were exploited by certain individuals, not that the systems themselves had failed. When discussing the practice of moving brothers between institutions, Brother Graham stated:

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819 Letter from Reverend Michael Malone to Brother Donatus Forkan, CTH0019383, p 2.

820 Victorian Parliament's Family and Community Development Committee Inquiry into the Handling of Child Abuse by Religious and Other Organisations, MSC0006399, p 5, 6, 18.

821 Letter from Brother Timothy Graham to Prior General Donatus Forkan, regarding changes to Brother Brian O'Donnell's appointment in Papua New Guinea and the Victorian Parliament's Inquiry into the Handling of Child Abuse by Religious and Other Organisations, CTH0015296, p 8.

822 Transcript of evidence of Brother Timothy Graham, TRN0000415, p 105, pp 466.

823 Transcript of evidence of Brother Timothy Graham, TRN0000415, p 106, pp 467.

"To our deep regret and shame, we now realise that this system was vulnerable to exploitation by abusers and those who sought to cover up their abuse."

273. This message was reiterated in Brother Graham's concluding comments:

"The brothers shamefully acknowledge the great harm that has been perpetrated by some of our members."

274. Reverend Dr Wayne Te Kaawa (a Presbyterian minister), in his opinion submission to the Inquiry, noticed this and labelled it 'scapegoating', and said it was the approach taken by both the Archbishop Paul Martin and Provincial Timothy Graham when providing evidence to the Inquiry. He stated:

"By repeatedly saying, it was only one person, or two people responsible for the abuse, it seems like the Church is setting up a scapegoat(s) to protect the Church. This effectively tries to draw attention away from the other substantial allegations of abuse against the 21 brothers and others."[824]

275. In April 2013, Brother Graham and Ms Harris, the chair of the Order's professional standards committee appeared before the Victorian Parliament's Family and Community Development Committee, where he accepted that the 31 abuse cases in Victoria involving the Order were due to a "systemic failure of scrutiny and accountability".[825] They were asked whether the Order attracted paedophiles, to which Ms Harris replied that only an investigation into the systemic causes of the abuse could answer that question.[826] When asked whether the Order would be prepared to undertake such an investigation, she replied that it was open to doing so.[827] However, it has never done so, and nor has it ever made any attempt to answer that most obvious and essential question: why have so many brothers in the Order been sexual abusers?

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[824] Submission by Reverend Dr Wayne Te Kaawa, WITN1500002, (August 2022).

[825] Victorian Parliament's Family and Community Development Committee Inquiry into the Handling of Child Abuse by religious and other Organisations, MSC0006399, p 7.

[826] Victorian Parliament's Family and Community Development Committee Inquiry into the Handling of Child Abuse by religious and other Organisations, MSC0006399, p 18.

[827] Victorian Parliament's Family and Community Development Committee Inquiry into the Handling of Child Abuse by religious and other Organisations, MSC0006399, p 18.

Whakataunga ā-pūtea mō ngā purapura ora
Financial outcomes for survivors

Ngā kerēme i whakatakotongia atu ai ki te Rangapū
Claims made to the Order

276. The Order has made payments to 113 (78 percent) of the 144 individuals who reported abuse by the Order in Aotearoa New Zealand.[828] As at 30 June 2021, payments amount to NZD$7,992,066 (payments were made in Australian dollars and have been converted here using the exchange rate at the time). The average payment was NZD$71,358. By contrast, the average financial payment by other Catholic Church authorities to Aotearoa New Zealand survivors is NZD$24,582.[829]

277. Differences exist in the level of the Order's payments relative to the setting in which the abuse occurred. The reason for these differences is unclear.

278. Payments totalling NZD$6,639,290 were made by the Order to individuals who reported abuse by brothers at Marylands, the Order's bach and the orphanage. The average payment was NZD$67,074.

279. Payments totalling NZD$1,769,956 were made to individuals who reported abuse in the care of Hebron Trust. The average payment was NZD$98,331.

280. While the reasons for the difference are not known to the Inquiry, the chance of receiving a payment if the abuse occurred in Hebron Trust context was lower than if abuse occurred in other settings. But, on average, individuals who were abused in Hebron Trust context received a higher level of payment than people abused in other settings.

281. The Order's payments to Aotearoa New Zealand survivors are lower than it paid to Australian survivors.[830] Brother Graham was not able to explain why.

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[828] Possible reasons for financial redress not being made by the Order include: a report of abuse being made recently which has not yet been settled; a report by a parent of an individual that attended Marylands or Hebron where no financial settlement was made; a complainant either stopped correspondence or passed away before settlement.

[829] In terms of value, the total value of all ex-gratia payments made to survivors by 29 Catholic Church authorities is NZD$16,841,558. The value of the payments made by St John of God to survivors (NZD$7,992,066) is 48 percent of all ex-gratia payments. If the ex-gratia payments made to St John of God survivors is excluded, the total amount paid to survivors by other Catholic Church authorities is NZD$8,849,492. The average ex gratia payment made to those 360 survivors who received money from other Catholic Church authorities is NZD$24,582. This average is NZD$46,776 less than the average payment made to St John of God survivors.

[830] Transcript of evidence of Brother Timothy Graham, TRN0000415, p 22 pp 383.

Ngā kerēme ki te Manatū Mātauranga me te Manatū Whakahiato Ora
Claims made to Ministry of Education and Ministry of Social Development

282. Survivors lodged claims with the Ministry of Social Development and the Ministry of Education in relation to their experiences at Marylands and Hebron Trust. The State has refused to accept responsibility for the abuse perpetrated at Marylands.[831] The redress process for survivors of abuse, operated by the Ministry of Social Development, initially excluded abuse within a facility under the auspices of a faith-based institution. Since 2018 the redress process does not exclude abuse in those settings. However, the State will only acknowledge or apologise for social work practice failures and does not therefore accept responsibility for the abuse suffered.[832]

283. There appears to have been only one claim lodged with the Ministry of Education regarding abuse at Marylands.[833] The Ministry of Education told the victim to approach the Catholic Diocese in Christchurch.[834]

284. The Ministry of Social Development has identified at least six claims that relate to concerns about a claimant's experience at Marylands, although there may be more.[835] The Ministry of Social Development accepts that at least some social workers failed to supervise children properly, during which time the children suffered sexual abuse.[836]

285. Until November 2018, the abuse endured by the survivors was not considered in settlement payments under the Ministry of Social Development's full assessment process, though has been in some circumstances including under the Ministry of Social Development's Two Path Approach since November 2018. [837] The Crown draws a technical distinction between its own failures and the abuse itself. When a claim was received, the Ministry of Social Development considered only whether the social work practices met the standards of the day.[838] For example, if a social worker failed to visit a child as often as they should have done, or failed to investigate an allegation of abuse made by the child, this would be considered to be a practice failure.[839] But the Ministry would take no responsibility for the

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[831] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 775.

[832] Brief of evidence of Linda Hrstich-Meyer for MSD, WITN0102005, paras 4.1–5.5.

[833] Ministry of Education submission in response to the Royal Commission of Inquiry's Notice to Produce No. 202: Schedule 2, MOE0002844, pp 25–26; Brief of evidence from Helen Hurst (Associate Deputy Secretary, Ministry of Education) for the Marylands School public hearing, EXT0020167 (Royal Commission of Inquiry into Abuse in Care, 7 October 2021), paras 6.1 to 6.12.

[834] Ministry of Education submission in response to the Royal Commission of Inquiry's Notice to Produce No. 202: Schedule 2, MOE0002844, p 25–26.

[835] Brief of evidence of Linda Hrstich-Meyer for MSD, WITN0102005 (Royal Commission of Inquiry into Abuse in Care, 8 February 2022), para 5.1.

[836] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 43.

[837] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 43.

[838] Brief of evidence of Linda Hrstich-Meyer for MSD, WITN0102005, para 4.1.

[839] Brief of evidence of Linda Hrstich-Meyer for MSD, WITN0102005, para 4.1.

abuse that resulted from those failures. Survivors have recognised the redress payments, if any, were very low.

"After 12 years in DSW care and nine years fighting the Ministry of Social Development with my lawyers, this offer was like a kick in the head. It was blood money, or chump change. The Ministry basically told me 'we're sorry, but we can't do anything real for you, get on with your life'."[840]

286. A Hebron Trust survivor, Justin Taia, was under the legal supervision of the Department of Social Welfare for at least 12 months in the period he was being abused.[841] He did not see a social worker for nearly all this time,[842] and the Ministry of Social Development accepts that there was "practice failure" in that he was not supervised properly.[843] However, the apology letter from the Ministry of Social Development did not give any apology for, or recognition of, the abuse that he suffered at Hebron during the time that he was not supervised.[844]

287. Ms Hrstich-Meyer, from the Ministry of Social Development, gave evidence about why redress was provided for "practice failures" but not for abuse that the State failed to notice or act on because of those practice failures:

"...there are a number of reasons for that and bearing in mind this is the thinking at the time, is that many faith-based institutions had their own processes. There was a view that it's not appropriate to receive multiple payments for the same allegation of abuse. We're not in a civil context where we're looking at joint tortfeasors and trying to apportion that.

The other thing is that we presume that the church would have the documentary records, and lastly that it's more appropriate to get an acknowledgement and apology from that particular organisation."[845]

288. Cooper Legal has represented a number of Marylands, Hebron Trust and orphanage survivors. It believes that this position is wrong in law, and is a "complete abdication of legal and moral responsibility".[846] It takes the view that the State has joint responsibility for the abuse, and that it is responsible regardless of whether a child was placed in faith-based care as a State ward, or in the State's custody, or

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840 Witness statement of Alan Nixon, WITN0716001, para 33.
841 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 42.
842 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 364.
843 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 364.
844 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 364.
845 Transcript of evidence of Linda Hrstich-Meyer for MSD, TRN0000416, p 75–77 pp 541–543.
846 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 275.

under its guardianship.[847] Mr Galvin's own evidence, on behalf of Oranga Tamariki, states that:

"During the period that children were placed at Marylands School, children and young people were able to be placed in State care in accordance with the provisions in the Child Welfare Act 1925, the Guardianship Act 1968, or the Children and Young Persons Act 1974. Those Acts then provided that the CWD [Child Welfare Division] or DSW [Department of Social Welfare] had responsibilities in respect of those children and young people."[848]

Te Whare Pani o Hato Hōhepa – i roto i ngā puretumu
St Joseph's Orphanage – Redress

289. The Inquiry has heard from a number of survivors from the orphanage that have shared their experience with the redress process offered by the Sisters of Nazareth.

290. Sister Mary Moynahan told the Inquiry that this redress process was called The Commitment, although confirming that it "has concluded", she said "The Sisters of Nazareth have entered into a number of settlements with survivors".[849]

291. The Sisters of Nazareth offered an apology to all orphanage survivors and encouraged these survivors to come forward.[850]

Puretumu torowhānui mō ngā purapura ora
Holistic redress for survivors

292. Survivors are still calling for justice and accountability, an acknowledgment of the pain and harm they suffered, adequate financial compensation, adequate and ongoing holistic support, and to raise awareness in the hope of change:

"I want this abuse to never happen again. The whole thing feels like a horror story, I find it difficult to believe that it could have happened."[851]

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847 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 275.
848 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 12.
849 Witness statement of Sister Mary Monaghan, WITN1801001 (2023) para 14.
850 Witness statement of Sister Mary Monaghan, WITN1801001 (2023) para 15.
851 Witness statement of Mr IH, WITN0671001, para 113.

"Peace does not even exist in my world, as there has never been any acknowledgement as to what happened to me as a little boy, an innocent defenseless boy."[852]

"Justice needs to be done. That includes being paid proper compensation rather than just being shut up and being put aside. This has got to come out."[853]

Kāore i tika ngā utu paremata
Inadequate financial compensation

293. Survivors have described the compensation offered by the Order as completely inadequate and are calling for financial redress that is reflective of the impact the abuse and neglect has had on their lives.

"St John of God's compensation was inadequate to me. They paid some people a lot more than I was paid. I accept that they may claim that they don't know the full extent of it however I do not feel that what they gave me was sufficient compensation for what I had been exposed to at Marylands."[854]

"When I think, now, about redress, I think about what the average person makes by way of salary on an annual basis. Over the course of my life, I have lost hundreds of thousands of dollars in terms of my potential earnings because of the impact of the abuse in care. That is how I think redress should be calculated. It should take into account where I would have been, if the last 45 years had not followed the path they have, because of the abuse I suffered as a child in care."[855]

"All I want is comfort now. I want a house where myself and my children can come and go from."[856]

"[my sister] says that if the government paid compensation, I could live in a better room in my rest home and have a better quality of life."[857]

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[852] Witness statement of Mr CA, WITN0721001, para 29.
[853] Witness statement of Steven Long, WITN0744001, para 35.
[854] Witness statement of Edward Marriott, WITN0442001 (Royal Commission of Inquiry into Abuse in Care, 24 May 2021), p 20.
[855] Witness statement of Danny Akula, WINT0745001 (Royal Commission of Inquiry into Abuse in Care, 13 October 2021), p 39.
[856] Witness statement of Mr HZ, WITN0324015 (Royal Commission of Inquiry into Abuse in Care, 14 May 2021), p 16.
[857] Witness statement of Mr CB, WITN0813001 (Royal Commission of Inquiry into Abuse in Care, 22 November 2021), p 10.

"When I think, now, about redress, I think about what the average person makes by way of salary on an annual basis. Over the course of my life, I have lost hundreds of thousands of dollars in terms of my potential earnings because of the impact of the abuse in care. That is how I think redress should be calculated. It should take into account where I would have been, if the last 45 years had not followed the path they have, because of the abuse I suffered as a child in care."

- Danny Akula

Te hāpai ahurea i roto i ngā puretumu
Culturally appropriate redress

294. The lack of culturally informed redress available for survivors was raised during the hearing when Dr Mulvihill, who assisted the Order with their redress process, was asked whether there was "any consideration given to the policies and the practices of what you might then engage in or was it [te Tiriti o Waitangi] part of the discussions really around your redress processes knowing that you were coming into New Zealand?" Dr Mulvihill replied:

"No...To my shame we did not – I did not know enough, I was ignorant of the culture and the respect that the culture should and could have been paid."[858]

295. Māori survivor Adam Powell complained about feeling ill-informed and confused about the redress process:

"To be honest, I didn't really understand much about what was going on... I met with Peter Burke from St John of God at the Star and Garter Pub in October 2002. That's where he met with quite a few of the complainants. He took notes of our meeting in letter form, but he did not ask about my experience in much detail. I felt that he wanted to deal with us as quickly as he could, the quicker he got us out of there the better. It was difficult to trust him."[859]

Te hāpai purapura ora i roto i te puretumu torowhānui
Survivor-centred redress

296. Many survivors recommended that any new puretumu torowhānui, holistic redress, process needs to be survivor led. Adam Powell said:

"Any future redress process needs people involved who have an understanding of being a victim. Unless you have been a victim you don't understand what one goes through. You don't know what is required to heal, to get through the healing process or even have the belief and strength to disclose in the first place. It must be a survivor led and informed process."[860]

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858 Transcript of evidence of Dr Michelle Mulvihill, TRN0000414, p 38, pp 314.
859 Witness statement of Adam Powell, WITN0627001, para 71.
860 Witness statement of Adam Powell, WITN0627001, para 86.

Te puretumu torowhānui mō ngā purapura ora ki Ahitereiria, ngā wawata mō Aotearoa Niu Tīreni
Redress for survivors in Australia, hopes for Aotearoa New Zealand

297. Darryl Smith is a Marylands survivor and historical child sexual abuse advocate who describes himself as having a mild intellectual disability. Darryl went through a redress settlement process for the sexual abuse he suffered as a child from the Order in Australia and received compensation from the Queensland Government. Darryl shares his experiences of the support he and other survivors of abuse received in Australia:

"If it wasn't for the courtesy of the Queensland government I wouldn't be where I am now. That was a recent settlement where my lawyer's fees were paid, and I received a settlement as well. Queensland has more support for survivors than in New Zealand, take for example the Forde Foundation that was set up after the Inquiry.

At the Lotus Place, there is support there for financial grants, medical costs, dental, start-up costs for a flat and furnishings, educational grants. I received an educational grant for a laptop, for example.

It has a physical location in Brisbane where there is a complete building dedicated to survivors where they can walk off the street, get a coffee, get help, speak to someone.

There's an 0800 number, there are services available there, like meetings for survivors and cooking classes, all sorts of things going on.

They also help with advocacy for Centrelink, which is Queensland's equivalent to WINZ. They tell the government what supports survivors need, Lotus Place would meet with Centrelink on behalf of the survivor, or the survivor might be there too. Together they work out what would be available between the state's interests and the survivor's needs. Lotus Place shows that they're there for the long haul.

The Royal Commission Act also shows survivors in Australia that the changes are there for the long haul. New Zealand also needs to commit to redress in legislation.

I have the same hopes for the outcomes for survivors from the Royal Commission in New Zealand."[861]

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[861] Witness statement of Darryl Smith, WITN0840001, para 54.

298. Like other survivors, Darryl is of the view that redress is much more than financial compensation. As well as sharing his experience in Australia, Darryl has written to the Inquiry urging the Government to establish an independent redress scheme.

299. Darryl's submission set out features of this proposed redress scheme.[862] Darryl recommends any new redress scheme set up by the Government in response to the Inquiry's reports must provide for:

- mandatory participation by all faith-based institutions
- the redress scheme being managed independently from the institutions
- historical claims for redress being reviewed and financial compensation being adjusted if necessary.

300. We refer to the Inquiry's report He Purapura ora, he Māra tipu: From Redress to Puretumu Torowhānui,[863] which recommends the establishment of an independent puretumu torowhānui, holistic redress, system and scheme be set up for survivors of abuse and neglect in care. The Inquiry's report recommends that faith-based institutions, including the Catholic Church, are strongly encouraged by the State to sign up to the system and scheme. When questioned by the Inquiry, the Catholic Church signalled its support 'in principle' for an independent redress scheme.

Ngā takahitanga o te ture tikanga tangata
Potential breaches of human rights law

301. We have found there was pervasive and severe sexual abuse of tamariki and rangatahi at Marylands between approximately 1955 and 1983 and rangatahi at Hebron Trust between approximately 1986 and 1992. The survivors of that abuse suffered severe pain or suffering, both mental and physical. Other abuse had similar effects. Tamaraki and rangatahi were humiliated, forced to act against their will, and lived in fear. All tamaraiki and rangatahi were vulnerable, particularly disabled children.

302. There is evidence that some of the brothers used sexual abuse to punish children, or combined sexual abuse with other acts of punishment and that disabled children were targeted for abuse. We have also found that at Marylands and Hebron Trust there was racism, abusive targeting of tamariki and rangatahi Māori and cultural neglect.

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[862] Submission of Darryl Smith, MSC0008833 (20 February 2023) p 1.

[863] He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui, Royal Commission of Inquiry into Abuse In Care, December 2021, p 266.

303. The State (Ministry of Education, Department of Health, Department of Social Welfare) provided minimal oversight of these institutions. The Department of Social Welfare and police were put on notice of the alleged abuse at Marylands and Hebron Trust, through complaints they received. When this occurred, the State, through those agencies, did not respond at all or did not respond in a timely way.

304. Many acts of abuse may constitute breaches of the criminal law by the abuser. They may also give rise to civil (tort) law liability for others including the institution or State. In addition, these acts, and failures to address them effectively, may give rise to breaches of human rights law. Potentially relevant human rights and obligations are below:

- The right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment in Article 7 of the International Covenant on Civil and Political Rights (ICCPR), which New Zealand ratified on 28 December 1978.
- Where States have ethnic minorities, persons belonging to those minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, or to use their own language in Article 27 of the ICCPR, which New Zealand ratified on 28 December 1978.
- The State's obligation to take effective measures to prevent acts of torture contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Aotearoa New Zealand ratified on 10 December 1989.
- The right not to be subjected to torture or to cruel, degrading or disproportionately severe treatment or punishment in s 9 of the New Zealand Bill of Rights Act 1990, which has been in force since 25 September 1990.
- The obligation in Article 37 of the United Nation Convention on the Rights of the Child, which Aotearoa New Zealand ratified on 6 April 1993, to ensure that no child is subjected to torture or other cruel, inhuman or degrading treatment or punishment.

305. In 1982 the United Nations Human Rights Committee issued a General Comment on Article 7 of the ICCPR. The Committee considered that State Parties must ensure effective protection against acts prohibited by Article 7 through "some machinery of control", including effective investigations of complaints.[864] Such investigations must be prompt, impartial and competently conducted.[865]

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[864] UNHRC General Comment No. 7: Article 7 (Prohibition of torture or cruel, inhuman or degrading treatment or punishment), 1982 at [1].

[865] UNHRC General Comment No. 20: Article 7 (Prohibition of torture or cruel, inhuman or degrading treatment or punishment), 1992 at [14].

306. To be consistent with human rights obligations, a criminal investigation must be capable of establishing the facts and "identifying and punishing those responsible".[866] The UN Torture Committee has concluded that international legal obligations to investigate alleged torture may apply regardless of whether the alleged acts of torture occurred before or after the State ratified the applicable human rights treaty.[867]

307. In General Comment 31, the United Nation Human Rights Committee stated that it saw implicit in Article 7 of the ICCPR that: "State Parties have to take positive measures to ensure that private persons or entities do not inflict torture, or cruel, inhuman or degrading treatment or punishment on others within their power."[868]

308. Sexual offending may constitute torture: rape has been recognised as torture where at least one of the purposes for the rape was a prohibited purpose (to punish, to intimidate or coerce, or for a discriminatory purpose), and the rape was committed by or with the consent of acquiescence of a person acting in an official capacity.[869] There are also sources referring to other forms of sexual abuse,[870] and sufficiently serious corporal punishment,[871] as cruel, inhuman or degrading treatment.

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[866] Zentveld v New Zealand CAT/C/68/D/852/2017 4 December 2019 at [9.2].

[867] Zentveld v New Zealand CAT/C/68/D/852/2017 4 December 2019 at [8.3].

[868] UNHRC General Comment No. 31: The Nature of the General Legal Obligations Imposed on States Parties to the Covenant CCPR/C/21/Rev.1/Add.13 2004 at [8].

[869] For example, see: UN Special Rapporteur on Torture, Report on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Committee on Human Rights, E/CN.4/1986/15, 19 February 1986 at [36], [38] and page 29; Raquel Martín de Mejía v. Peru Inter-American Commission on Human Rights, Report nº 5/96, Case 10.970, 1 March 1996: "the Commission considers that rape is a physical and mental abuse that is perpetrated as a result of an act of violence [...]. The fact of being made the subject of abuse of this nature also causes a psychological trauma that results [...] from having been humiliated and victimized. [...] Raquel Mejía was raped [in 1989] with the aim of punishing her personally and intimidating her [...] The third requirement of the definition of torture is that the act must have been perpetrated by a public official or by a private individual at the instigation of the former. As concluded in the foregoing, the man who raped Raquel Mejía was a member of the security forces [...]"; and Prosecutor v Kunarac, Kovac and Vukovic (IT-96-23 & IT-96-23/1-A), International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, 12 June 2002, Appeals Chamber at [142]-[156].

[870] M.C. v. Poland, European Court of Human Rights, 3 March 2015 at [86]; A and B v. Croatia European Court of Human Rights 20 June 2019 at [106], [110], [111] and [114]; and X and Others v Bulgaria European Court of Human Rights (Grand Chamber) 2 February 2021 at [193].

[871] For example, UNHRC General Comment No. 7: Article 7 (Prohibition of torture or cruel, inhuman or degrading treatment or punishment), 1982 at [2]; UN Special Rapporteur on Torture, Report on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Committee on Human Rights, E/CN.4/1986/15, 19 February 1986 at [48]; and Costello-Roberts v United Kingdom ECHR (25 March 1993) at [30].

309. The State's potential obligations to those in the care of church institutions can be seen in a decision of the European Court of Human Rights in 2014. The court considered Ireland's obligations to protect children sexually abused in the early 1970s at a school owned by a Bishop of the Catholic Church. The majority of the court referred to the absolute prohibition against torture and inhuman or degrading treatment or punishment as "one of the most fundamental values of democratic society".[872] It held that State Parties had to: "take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment, including such ill-treatment administered by private individuals."[873] This positive obligation to protect had to be interpreted so that it would not impose an excessive burden on public authorities. However, "the required measures should, at least, provide effective protection in particular of children and other vulnerable persons..." The State was obliged to take "reasonable steps to prevent ill-treatment of which the authorities had or ought to have had knowledge".[874]

310. The majority held that this positive obligation assumed: "particular importance in the context of the provision of an important public service such as primary education, school authorities being obliged to protect the health and well-being of pupils and, in particular, of young children who are especially vulnerable and are under the exclusive control of authorities."[875] Ireland could not absolve itself of its obligations to minors in primary schools by delegating its duties to private bodies or individuals, including, in this case, the Catholic bodies responsible for the school.[876]

311. As part of the Faith institutional response hearing in October 2022, the Crown filed a memorandum with the Inquiry stating:

> "24. Overseas case law suggests that s 9 of the New Zealand Bill of Rights Act (right not to be subjected to torture or other cruel, inhuman or degrading treatment) may, independently of s3(b) impose one or both of the following obligations on the State in respect of non-State actors:
>
> 24.1 A systemic duty to implement a legal regime that criminalised and punished acts of torture;

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872 O'Keeffe v Ireland European Court of Human Rights (Grand Chamber) 28 January 2014 at [144].
873 O'Keeffe v Ireland at [144].
874 O'Keeffe v Ireland at [144].
875 O'Keeffe v Ireland at [145].
876 O'Keeffe v Ireland at [150] and [165]-[169].

24.2 An operational duty to keep children in the care and control of the state safe from known or suspected risks of severe ill-treatment by:

24.2.1 adequately facilitating and investigating complaints of severe ill-treatment; and

24.2.2 adopting reasonable measures and safeguards to protect those children from that risk of severe ill-treatment."[877]

312. The Crown also stated:

> "22. Any one can have obligations in relation to human rights as a result of s3(b) of NZBORA, but only if they are performing a public function, power or duty. This is likely to be the case where the State has empowered private citizens and other actors to provide care for vulnerable children."[878]

313. The evidence therefore indicates that the Crown may well have breached human rights obligations to those in care at Marylands School, and Hebron Trust. If the Crown is liable, it would be obliged under international law and potentially under the New Zealand Bill of Rights Act to provide appropriate redress including compensation and rehabilitation.

314. There are also potential questions about the liability of the Order of St John of God and members of the Order for abuse of those who received services of Hebron Trust. Liability could potentially arise under the New Zealand Bill of Rights Act for acts done in performance of a public function, power or duty conferred by or pursuant to law after the Bill of Rights came into force on 25 September 1990.[879]

315. There would no doubt be hurdles for any claimant and it is not the Inquiry's function to determine liability. That is a matter for the courts or other appropriate bodies. But our findings give rise to questions about liability, including for torture and other fundamental human rights breaches. We signal possible recommendations in the Final Report that further steps be taken to determine liability of the Crown, the Order and relevant individuals.

316. In the meantime, we encourage the Crown and the Order to take good-faith steps to assess their liability in light of this report. We also encourage proactive action to ensure that survivors of abuse at Marylands and Hebron Trust have effective and efficient access to justice.

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[877] Memorandum of Counsel of behalf of the Crown: Faith-based institutions response hearing, 21 February 2023, para 24.

[878] Memorandum of Counsel of behalf of the Crown: Faith-based institutions response hearing, 21 February 2023, para 22.

[879] New Zealand Bill of Rights Act 1990, ss 3(b) and 1(2).

Te Tiriti o Waitangi

317. The current Tiriti o Waitangi legal framework as it applies to the Crown and faith-based institutions providing care for tamariki Māori, rangatahi Māori and pakeke Māori at risk, in the context of faith-based care, can be summarised in the following way:

    (a) the Crown has Tiriti obligations as a Tiriti partner/signatory that include:[880]

        - Ensuring that faith-based institutions recognise Māori rights and values, and that they act in accordance with te Tiriti obligations of the Crown. This is consistent with te Tiriti principle of active protection and the Crown's responsibility to ensure its Tiriti obligations are upheld when it delegates its powers and functions to faith-based institutions.
        - Monitoring the activities of faith-based institutions, and auditing faith-based institutions' performance in the context of te Tiriti relationship between Crown and Māori.

    (b) faith-based institutions are not Tiriti partners themselves, but:

        - Legislation may require them to act consistently with te Tiriti.[881]
        - Te Tiriti is relevant to interpreting legislation (or in other words can be read in to legislation) even where legislation is silent on te Tiriti.[882] Therefore, te Tiriti may impact faith-based institutions when they care for tamariki Māori, rangatahi Māori and pakeke Māori at risk as te Tiriti is relevant to the care of tamariki Māori and rangatahi Māori and it colours all legislation dealing with the status, future and control of tamariki.[883]
        - If faith-based institutions made their own commitments to te Tiriti (for example, in governing documents of public statements), they may be held accountable to meet those commitments.[884]

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[880] See Waitangi Tribunal Tauranga Moana 1888-2006: Report on the Post-Raupatu Claims (Wai 215, 2010) at 476.

[881] For example, see: Education and Training Act 2020, ss 4, 5, 9 and 127.

[882] See Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board [2021] 1 NZLR 801, [2021] NZSC 127, paras 8 and 151; Ngāti Whātua Ōrākei Trust v Attorney-General [2022] NZHC 843, para 589; and Huakina Development Trust v Waikato Valley Authority [1987] 2 NZLR 188 (HC).

[883] Barton-Prescott v Director-General of Social Welfare [1997] 3 NZLR 179 at 184.

[884] See Te Pou Matakana Limited v Attorney-General [2022] 2 NZLR 148, [2021] NZHC 2942. Although this case concerned the Ministry of Health's policy commitments to exercise its powers in accordance with Te Tiriti, it may be arguable that faith-based institutions exercise public powers and functions when providing care and therefore could be amenable to judicial review if a decision is inconsistent with its own Te Tiriti commitments.

318. How te Tiriti applies in a given context depends on the particular circumstances.[885]

319. The status of te Tiriti in Aotearoa New Zealand's law has evolved overtime so te Tiriti is now recognised as the founding constitutional document of Aotearoa New Zealand and "of the greatest constitutional importance".[886]

320. In terms of what te Tiriti requires, the Waitangi Tribunal and courts have interpreted and developed a significant body of jurisprudence over the last 40 years. The Waitangi Tribunal, in particular, is a specialist body that has statutory authority to determine the meaning and effect of te Tiriti.[887] Given this expertise, courts have empahsised that much weight should be given to the opinions of the Waitangi Tribunal as expressed in its reports.[888]

321. The Tiriti principles and framework in this report draw on contemporary jurisprudence, some of which emerged after the operation of Marylands and Hebron Trust. This is consistent with the approach taken by the Waitangi Tribunal when assessing historic Crown breaches of te Tiriti: the Tribunal assesses historic Crown conduct against the principles as they are now understood to be. It is also consistent with the operation of the common law.

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[885] New Zelaand Maori Counsil v Attorney-Geneal [1994] 1 NZLR 513 (PC) at 517 (the Broadcasting Assets case); and Ngāti Whātua Ōrākei Trust v Attorney-General [2022] NZHC 843 at [593] and [596].

[886] See New Zealand Māori Council v Attorney-General [1994] 1 NZLR 513 (PC) p 516; Sir Robin Cooke, "Introduction" (1990) 14 NZULR 1, p 1; Huakina Development Trust v Waikato Valley Authority [1987] 2NZLR 188 (HC) pp 206 and 210; and Attorney-General v New Zealand Māori Council (No 2) [1991] 2 NZLR147 (CA) p 149.

[887] Treaty of Waitangi Act 1975, Preamble and s 5.

[888] See, for example, New Zealand Māori Council v Attorney-General [1987] 1 NZLR 641 (CA) pp 661–662.

322. Indeed, te Tiriti rights and obligations have existed since 1840. The principles of te Tiriti are derived from its text, spirit, intent and circumstances. The principles of te Tiriti cannot be divorced from, and necessarily include, the Articles and language of te Tiriti itself.[889] Te Tiriti is always speaking and it is important to stress that the intention of both Māori and the Crown when they signed te Tiriti was to share public power and authority.[890] The Waitangi Tirbunal has found that te Tiriti principles must be based in the actual agreement entered into in 1840 between rangatira and the Crown and the rangatira who signed te Tiriti: did not cede their sovereignty or authority to make and enforce law over their people and within their territories; and agreed to share power and authority with the Governor by way of having different roles and different spheres of influence (the Governor would have authority to control British subjects in New Zealand, and keep the peace and protect Māori interests). [891]

323. The Inquiry is not aware of any relevant te Tiriti commitments made by the Order. The Catholic Church's National Safeguarding and Professional Standard Committee has committed to "honouring the principles of te Tiriti o Waitangi by working with tangata whenua in the development and implementation of safeguarding practices". The Church's "Code of Conduct for Employees & Volunteers" also includes an agreement to "honour the principles of te Tiriti o Waitangi". However, that code only applies to employees and volunteers in Catholic dioceses and religious institutes, and not to clergy or religious, or employees or volunteers of other lay Catholic organisations. The code of conduct for clergy and religious does not mention te Tiriti.

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[889] As recognised by the Privy Council in New Zealand Māori Council v Attorney-General [1994] 1 NZLR 513 (PC) p 517. Also the Supreme Court has demonstrated a willingness to refer to and uphold the articles of te Tiriti: in Trans-Tasman Resources Resources Ltd v Taranaki-Whanganui Conservation Board [2021] 1 NZLR 801, [2021] NZSC 127 see the reference to "the guarantee in art 2 of the Treaty of tino rangatiratanga" at para 154 per William Young and Ellen France JJ; in Ellis v R [2022] NZSC 114 at para 98 see the reference to "the tino rangatiratanga guarantee in Article 2" per Glazebrook J, and at para 174 per Winkelmann CJ the mention of "the protection of the law … guaranteed to Māori under Article 3 of Te Tiriti o Waitangi". The Executive has also done this: see Cabinet Office, 'Te Tiriti o Waitangi / Treaty of Waitangi Guidance', Cabinet Office Circular: CO(19)5, 22 October 2019, available online at https://dpmc.govt.nz/sites/default/files/2019-10/CO%2019%20%285%29%20Treaty%20of%20Waitangi%20Guidance%20for%20Agencies.pdf; see p17: "While the courts and previous guidance have developed and focused on principles of the Treaty, this guidance takes the texts of the Treaty as its focus".

[890] See Wairarapa Moana ki Pouākani Incorporation v Mercury NZ Ltd [2022] NZSC 142 para 16; *Te Rūnanga o Muriwhenua Inc v Attorney-General* [1990] 2 NZLR 641 (CA) p 656; and *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641 (CA) pp 642 and 656. Also see Waitangi Tribunal, *He Whakaputanga me te Tiriti, The Declaration and the Treaty: Report on Stage 1 of the Te Paparahi o Te Raki Inquiry* (Wai 1040, 2014) p 529; and Ned Fletcher *The English Text of the Treaty of Waitangi* (Bridget Williams Books, August 2022).

[891] Waitangi Tribunal, *He Whakaputanga me te Tiriti, The Declaration and the Treaty: Report on Stage 1 of the Te Paparahi o Te Raki Inquiry* (Wai 1040, 2014), pp 526-529; and Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga – The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry* (Wai 1040, 2022), p 23.

324. In 1990, Catholic bishops issued a statement acknowledging te Tiriti as providing "the moral basis for the presence of all other peoples in Aotearoa". The bishops also committed to establishing a Catholic committee to "promote bicultural relationships in our multicultural society" and to implementing two related educational programmes for Catholics.

325. A Statement from the New Zealand Catholic Bishops Conference in 2008 said "[t]he Church will support the cause of all indigenous peoples who seek a just and equitable recognition of their identity and their rights."

326. Tamariki and rangatahi Māori at Marylands and Hebron experienced institutional racism, targeted abuse and cultural neglect. There was limited knowledge, understanding and acceptance of tikanga Māori and te reo Māori.

327. In our view, the Crown failed to ensure the care provided at Marylands and Hebron Trust was consistent with the principles of te Tiriti o Waitangi. These principles include:

- **Tino rangatiratanga** – the Māori right to autonomy and self-government, and their right to manage the full range of their affairs in accordance with their own tikanga.[892] Te Tiriti guaranteed Māori the rights and responsibilities their communities possess and practised for generations prior to the signing of te Tiriti.[893] Te Tiriti guaranteed ongoing full authority of Māori over their kāinga (home) encompassing the rights to continue to organise and live as Māori, to cultural continuity where whanaungatanga is strengthened and restored, and to care for and raise the next generation.[894]
- **Kāwanatanga**[895] – te Tiriti gave the Crown, through the new Kāwana (Governor) the right to exercise authority over British subjects, and keep the peace and protect Māori interests. The duty of the Crown is to foster tino rangatiratanga, not to undermine it, and to ensure its laws and policies are just, fair, and equitable and to adequately give effect to te Tiriti rights and guarantees.

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[892] Waitangi Tribunal, Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims (Wai 898, 2018) Parts 1–2, p. 189.

[893] Waitangi Tribunal, Tino Rangatiratanga me te Kāwanatanga – The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2022), p 72.

[894] Waitangi Tribunal, He Pāharakeke, He Rito Whakakīkīnga Whāruarua: Oranga Tamariki Urgent Inquiry, Pre-publication version (Wai 2915, 2021) p.97.

[895] Waitangi Tribunal, Tino Rangatiratanga me te Kāwanatanga – The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2022), p 84.

- **Partnership**[896] – the Crown and Māori are equals with different roles and spheres of influence. Partnership requires the co-operation of both the Crown and Māori to agree to their respective areas of authority and influence, and to act honourably and in good faith towards each other. The Crown is not to decide what Māori interests are or what the sphere of tino rangatiratanga encompasses; the Crown's duty is to engage actively with Māori (rather than merely consulting), and to ensure shared decision-making with Māori.
- **Mutual recognition and respect**[897] – the Crown and Māori must recognise and respect the values, laws, and institutions of the other. For the Crown, its recognition and respect of hapū communities, their values, rights, interests and spheres of authority, should be evident in the importance it places on the te Tiriti guarantee of tino rangatiratanga.
- **Active protection** – the Crown must actively protect Māori rights and interests, including Māori tino rangatiratanga. This includes rights relating to the wellbeing of tamariki, rangatahi, tāngata whaikaha and pakeke whakaraerae. The Crown cannot cause harm, or stand by while harm is done. The active protection of tino rangatiratanga is not a Crown duty arising from its sovereign authority, rather it is an obligation on its part to help restore balance to a relationship that became unbalanced.[898] Because the Crown expanded its sphere of authority far beyond the bounds originally understood by Māori who signed te Tiriti, this duty is heightened so long as the imbalance remains.[899]
- **Equity**[900] – Māori are guaranteed equitable treatment and citizenship rights and privileges, and the Crown has a duty to actively promote and support both. Equity requires the Crown to focus attention and resources to address the social, cultural, and economic requirements and aspirations of Māori. The Crown must actively address inequities experienced by Māori, and this obligation is heightened if inequities are especially stark. At its heart, satisfying the principle of equity requires fair, not just equal or the same, treatment. This is a duty to be undertaken in partnership with Māori.

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[896] Waitangi Tribunal, Tino Rangatiratanga me te Kāwanatanga – The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2022), p 76; and Waitangi Tribunal, Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims (Wai 898, 2018), pp 158, 169 and 183, cited in Waitangi Tribunal, He Pāharakeke, He Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry (Wai 2915, 2021), p 17.

[897] Waitangi Tribunal, Tino Rangatiratanga me te Kāwanatanga – The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2022), pp 77-79.

[898] Waitangi Tribunal, Tino Rangatiratanga me te Kāwanatanga – The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2022), p 81.

[899] Waitangi Tribunal, Tino Rangatiratanga me te Kāwanatanga – The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2022), p 81.

[900] Waitangi Tribunal, Tino Rangatiratanga me te Kāwanatanga – The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2022), p 82.

328. In our view, the Catholic Church and Order did not ensure the Order's members recognised the relevance of te Tiriti when caring for tamariki and rangatahi Māori and did not provide care that was consistent with te Tiriti.

Nga Whakakitenga: Kawenga
Findings: Accountability

Te wāhi ki te Kāwanatanga
The role of the State

329. The Royal Commission finds:

a. The State registered Marylands as a private special residential school with knowledge that the brothers were not suitably qualified to teach, but could train and care for disabled boys enrolled at Marylands. The State only carried out minimal monitoring of Marylands.

b. The Order's operating model was dependent on State funding. If State funding had not been provided, the Order would have not been able to establish, nor continue operating, Marylands school in Aotearoa New Zealand.

c. The Crown failed to ensure the care provided at Marylands and Hebron Trust was consistent with the principles of te Tiriti o Waitangi, specifically tino rangatiratanga, partnership, active protection, kāwangatanga, mutual recognition, respect and equity.

d. Police made poor decisions in 1993 by agreeing not to interview Brother McGrath if he returned to Aotearoa New Zealand, and by later 'custody clearing' additional allegations of sexual offending received when he was imprisoned.

e. Social Workers and police failed to investigate, document or act on reports of abuse by boys who ran away, or were wards of the State attending Marylands school and Hebron Trust.

f. The criminal justice system did not ensure access to justice for tamariki and rangatahi, and especially for tamariki and rangatahi Māori and disabled people, including through the provision of accommodations, such as communication assistance or navigations, and there was a lack of culturally appropriate support.

g. The State has failed to accept any responsibility for the harm caused to those abused at Marylands and Hebron Trust.

h. Police failed to provide culturally appropriate processes when engaging with Māori and Pacific survivors during the 2002/2003 Operation Authority investigation.

Te wāhi ki te Hāhi Katorika
The role of the Catholic Church

Te wāhi ki te Pīhopa Katorika o Ōtautahi
The role of the Catholic Bishop of Christchurch

330. The Royal Commission finds:

a. The Bishop of Christchurch failed to properly assess the Order's suitability to run Marylands as an educational facility.

b. The Catholic Church, Bishop of Christchurch and the Order did not ensure the Order's members recognised the relevance of te Tiriti o Waitangi when caring for tamariki and rangatahi Māori and did not provide care that was consistent with te Tiriti o Waitangi.

c. The Bishop of Christchurch failed to ensure the Order responded adequately to reports of abuse and claims for redress from 1993, and appeared to be mostly concerned with minimising any harm to the Catholic Church's reputation.

Te wāhi ki te Rangapū o Hato Hoani o te Atua
The role of the Order of St John of God

331. The Royal Commission finds:

a. The Order failed to prepare the boys placed at Marylands for inclusive community living to enable full and ordinary lives. The education and training provided was not tailored to recognise their different skills and experiences. Students at Marylands spent a lot of their time working in the laundry, kitchen or on the grounds of the school.

b. The Order repeatedly failed to pass allegations of sexual abuse against brothers on to police, in some instances. Instead the Order's leadership transferred perpetrators elsewhere while taking no steps to safeguard other potential victims from these individuals.

c. The Order missed a clear opportunity to respond to reports of abuse by Brother Moloney and Brother McGrath in 1977. Had the Order taken appropriate action at that time, later prolific offending by these two brothers could have been prevented.

d. If the Order had responded appropriately to the allegations of abuse by Brother DQ in Australia, he never would have been transferred to Marylands to carry out further abuse.

e. The Order's three provincials at the time, Brother Brian O'Donnell, Brother Joseph Smith and Brother Peter Burke, all failed to act on allegations of sexual abuse involving its members.

f. The Order appeared to have a practice of not making or keeping records of reports of abuse it received about brothers, and more generally. This absence of documentation prevented the Order's ability to see the true extent of the issues and take appropriate steps in response. It has also meant limited records were kept regarding the ethnicity or disability of boys at Marylands and Hebron Trust.

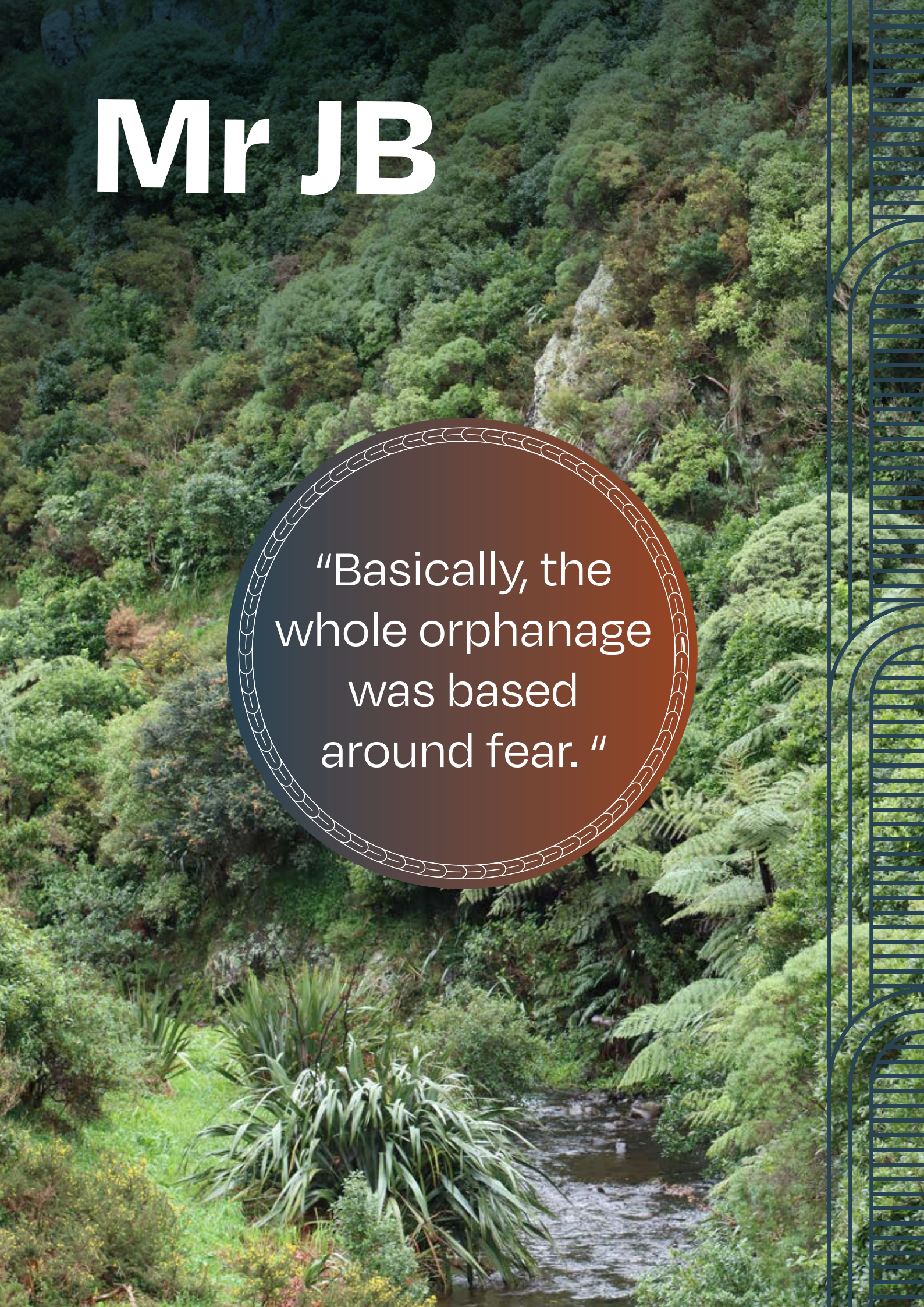
g. The Order misrepresented that it had acted as soon as allegations were made against Brother McGrath in 1992. Contrary to what the Director of Hebron told the media in 1993, Hebron Trust had not "acted immediately" in relation to the 1992 Aotearoa New Zealand reports of abuse against Brother McGrath. Allegations were made in May and June 1992. Brother McGrath was not removed from his role at Hebron Trust until a brother came from Australia in August 1992 to take him to Australia after an allegation of abuse was made there.

h. The Order's redress to survivors through its pastoral process had the potential to transform the lives of those traumatised by the abuse. The retraction of the pastoral process in 2004 caused further serious trauma.

i. Neither the Catholic Church nor the Order has ever proactively sought out survivors who attended Hebron Trust facilities and offered help or redress, neither has any successive bishop or Catholic Church entity. Social workers and NZ Police failed to investigate, document or act on reports of abuse by boys who ran away, or were wards of the State attending Marylands School and Hebron Trust.

j. Neither the Catholic Church nor the Order have ever initiated any form of investigation into why abuse at Marylands was so prolific.

Mr JB



"Basically, the whole orphanage was based around fear. "

Ngā wheako o ngā purapura ora - Survivor experience:

Name	Mr JB
Age when entered care	2 ½ years old
Age now	62 years old
Hometown	Christchurch
Time in care	1962–1969
Type of care facility	Faith-based orphanage – St Joseph's Orphanage psychiatric hospital – Sunnyside Hospital children's home – Methodist Children's Home
Ethnicity	New Zealand European with Irish heritage
Whānau background	Mr JB has an older sister, and two younger half-brothers. Mr JB's older brother passed away, aged 40. His parents separated when he was very young.
Currently	Mr JB has a daughter and a granddaughter.

My brother and I went to St Joseph's Orphanage when we were quite young. My brother is a year and a half older than me. My mother suffered personal problems as well as domestic violence, and my father left when I was around one year old. Our mother struggled to cope, so my brother and I were placed at St Joseph's Orphanage.

We were in and out of St Joseph's several times, and on our last placement there had been a change. There were now the Brothers of St John of God, who ran Marylands School. This changed everything, as the nuns would take us over to Marylands, telling us that we were going over to the 'bad boys' hut'. The sisters labelled Marylands the bad boys' place.

I was like my brother's shadow and he was my protector. On weekends my brother and I would stay all weekend and we'd be subjected to sexual abuse by the brothers at Marylands. They would just take their opportunities.

Both my brother and I were sodomised and raped on at least 10 separate occasions by approximately seven brothers. Not only were we sodomised, but we were required to undertake oral sex on the brothers. This would happen in their private rooms, sometimes in the boiler room and sometimes at the swimming pool.

On occasion, my brother was given port wine to drink, or cigarettes, to make him more placid and pliable. The brothers would ask us to 'do a chore', and my brother would end up in the brothers' house, where they would show him pornographic magazines. Sometimes the brothers would offer my brother bags of aniseed lollies to eat or have soft drink, which we never got at St Joseph's, when he was sexually abused.

The offending against us was horrific and non-stop from the brothers at St John of God. I believe the nuns must have known what was going on. It was like a pecking order – the priests, then the sisters, then us kids.

St Joseph's and Marylands were very close in proximity, with lots of trees and bushes that are not there now. To me, this enabled the abuse. There was a mixture of school fairs, swimming sports and schooling, which allowed the kids from St Joseph's to mix with the St John of God Brothers and Marylands pupils.

It was almost as if the nuns got nastier as they got older.

I remember the beatings from about age four. My brother and I wondered what on earth was going on. Everything seemed to be a punishment and it made us nervous wrecks from the very start. Because of the beatings, I'd wet the bed, which resulted in getting whacked – so it was a vicious circle. They would humiliate us for wetting the bed, and we'd be treated like an animal. We were hit in class at any time and for no reason, just things like not keeping up or not learning your lessons properly.

The nuns wore black and white habits, with big sleeves for their arms where they often hid little weapons, like hitting instruments, to discipline us. They used canes to hit us but also the backs of knives or little stick things like the clubs that police used to use. They also hit us with the big crosses they wore around their necks. Sometimes, they'd twist my brother's ear or hit him across the face. I remember a lot of blood on my clothes or on the floor. After a caning we were locked in a dark room under the stairs, like a cupboard, and left in there for at least a day with just a mop and a cleaning bucket.

Basically, the whole orphanage was based around fear. The boys were controlled by fear and would cower to the nuns, ministers and the brothers.

We sometimes had classes and the nuns used to force Latin down our throats. If we made mistakes, we were disciplined heavily in class – they'd bang you on the knuckles, which just made you a nervous wreck. At swimming sports, the nuns would throw me in the deep end and my brother would have to save me. Because of this, I now have a fear of water.

The food at St Joseph's was terrible. They gave us bread dipped in fat at breakfast and we had to eat four or five slices of it, and I couldn't do it. If I did eat it, I'd be sick on the bus on the way to school, and I'd get a whack for it. I think they made us eat the bread dipped in fat to make it look as if we were fed, but everything was stale and rotten anyway.

I remember several of the brothers of St John of God. They wore brown robes and were there during our last stays at the orphanage. There were also ministers who visited and wore black suits with a dog collar. One priest used to come to the orphanage more often than the other priests. He was in his 40s, wore glasses and was a reasonably tall chap. I also remember another priest with glasses who used to say mass at church.

There were quarters at the orphanage for the visiting priest to stay, and it was when these ministers were visiting that things would happen. They'd ask for some help with a little job, which led to further sexual abuse. I believe I was abused by around five different priests or brothers. I remember there were a couple of young ones, then the one who wore a Father Christmas suit, and also Bernard McGrath. While it wasn't an everyday thing, I'd describe the abuse as opportunist, and that it occurred on a semi-regular basis.

We used to go to movie time to watch films in the dark, and the sisters would be wandering around as well as a few males. A minister or brother would be sitting next to you and they'd just stick their hands down your pants. The movies were once or twice a week and it appeared to be some sort of opportunity for the male adults to get their rocks off.

Once, my brother and I were told to put on tights and made to do a ridiculous dance over some swords that were lying on the ground. It was entertainment for the sisters and brothers who were laughing. Then the sisters left and we were left there to entertain the men. Next thing the tights were off and sexual things happened. We were forced to give blowjobs to the men, and eventually it led to the worst of the worst – sodomy.

Once, the sisters said it was time for my brother and I to take confession. We went to the church and we were sitting there, and next thing, the father's hand was down my pants. This happened in a little room near the chapel where there was a table and a chair.

We disclosed the abuse – one time my brother and I tried to tell the nuns about what was happening, as we were getting older and starting to realise that it wasn't right. Unfortunately, the response was ferocious. We were accused of being devils and were caned and whacked. They put soap in our mouths for the 'dirty lies' we were telling about the priests. It was humiliating, and they picked on us as a result of us trying to speak up.

They threatened to send us to Marylands to be punished, and said things like 'how dare you say things about these mighty men'.

We also complained to our mother, but she didn't listen. She wasn't really with it and was basically a write-off. We told our aunties and I think they sort of knew about the abuse anyway.

My brother never recovered from the abuse he suffered at St Joseph's and St John of God, it affected him for the rest of his life.

He was expelled from high school aged 14. A teacher put his hand on my brother's shoulder and told him he needed to take his clothes off and go swimming. My brother was triggered, and he reacted immediately by turning around and punching the teacher. He was expelled and never went back to school.

My brother became heavily addicted to drugs, as did a number of boys we knew from St Joseph's Orphanage. He lived a life of survival on the streets, and he spent time in jail. He tried to attack a judge because he was going to be placed in a jail cell, and he had claustrophobia.

He suffered greatly, until he took his own life at the age of 40. Just before this happened, my brother said he couldn't take it anymore.

My brother steadily destroyed himself over the years. I dabbled in drugs a little, but I drank a lot more. That is what you do to try and suppress the trauma. As an adult I had a breakdown and the memories of abuse came crashing back. I lost my job, my girlfriend and my life spiralled. I ended up in Sunnyside Hospital for psychiatric treatment.

My life after St Joseph's was shattered. I couldn't form proper relationships with people and I am wary of everyone. I've never been married and I've found I gravitate to partners who have also been abused. If any women looks remotely like a nun, I get triggered, and whenever I see or hear anything to do with Catholics, I'm just filled with hate. I've had mates over the years, but I prefer a more hermit-type life – I don't want to inflict pain on others.

I haven't worked for over 20 years. Both my brother and I developed PTSD, anxiety disorders and insomnia. The PTSD stops me working, and I don't sleep well enough to function.

While the physical damage is one of the nasty things you live with, it's the mental damage that plays on your mind.

I have gone through a redress process with the Order of St John of God, and received an ex-gratia payment that gave me tangible help. It was, however, disproportionate to the effects of the abuse on my life.

I also complained about my time at St Joseph's orphanage and this is when I got involved with lawyer Grant Cameron. He represented several of us men complaining to the Christchurch Diocese and the Sisters of Nazareth. Initially the process went well but then the sisters hired a private investigator. I found the private investigator terrible and felt he was more interested in protecting men from the church that he knew himself, rather than help me.

Luckily the settlement did not depend on [the private investigator's] report. Initially the settlement was good. A 10-million-dollar trust fund was set up for us survivors at St Joseph's. It was designed to assist us with loans and bills. At one time I asked to borrow

some money for a house, but they kept procrastinating when I found a few houses, and they reneged their promise to help. All I got from them was around $30000. I found Sister Clare ok, but I did find it wrong that they were not concentrated on targeting or prosecuting the bad nuns.

Before we got any money, we were required to be assessed by a doctor. I had to be certified by psychiatrists from the Royal Melbourne Hospital, this was done at the St George Hotel. Sister Clare said she arranged specialists to meet us and assess us to ensure we were not lying. To me this was another abuse on top of what I'd already been through.

I also made a sensitive claim to ACC in 1983. They did an assessment and came up with $32 per week. I told them to shove it, when they said my ruined life was worth only that.

References

Witness statement, MR JB, WITN1171001 (Royal Commission of Inquiry into Abuse in Care, 28 April 2022).

Witness statement, Mr JC via his representative, Mr JB, WITN1171002, (Royal Commission of Inquiry into Abuse in Care, 28 April 2023).

Upoko Tuaono: Ngā āhuatanga i taka ai ki ngā mahi tūkino, ki ngā mahi whakangongo i te wā o te noho taurima

Chapter Six: Factors that caused or contributed to abuse and neglect in care

Upoko Tuaono: Ngā āhuatanga i taka ai ki ngā mahi tūkino, ki ngā mahi whakangongo i te wā o te noho taurima
Chapter Six: Factors that caused or contributed to abuse and neglect in care

Whakatakinga - Introduction

1. The Inquiry has identified some of the key factors that caused or contributed to the abuse and neglect that occurred, and was able to continue, at Marylands, Hebron Trust and the orphanage. These factors relate, sometimes concurrently, to societal, relational, institutional, individual, whānau and community circumstances, that allowed abuse and neglect to occur for decades.

Ngā āhuatanga o te pāpori i whakakaha ake i ngā mahi tūkino me ngā whakangongotanga
The societal factors that enabled the abuse and neglect to occur

2. The wider societal context created the environment that enabled abuse and neglect to occur, including:

   - impunity and the impact of (misplaced) high trust in 'people of God' and faiths.
   - societal views of ableism and racism, which we now know mirrored those of the Order and its institutional practices.
   - societal ignorance of sexual abuse and attitudes to sexual abuse.

Te whakawātea hara me ngā whakaaweawenga (kino) nā runga i te whakapono marika ki ngā 'tāngata o te Atua' me ngā whakapono/hāhi
Impunity and the impact of (misplaced) high trust in 'people of god' and faiths

3. The power, authority, deference, respect and impunity enjoyed by the Catholic Church and those who represent it, meant that for many in society, it was unthinkable that abuse could be taking place in institutions like Marylands and Hebron Trust. For example, the diocese bishops at the time assumed as 'men of God' the brothers could do no harm. This trust permeated throughout the entire Christchurch community, country and abroad, and was held even by those who were not associated with the church, such as State agencies.

4. This attitude caused many problems. Institutions like Marylands and Hebron Trust could be set up without proper oversight. The State simply accepted that a Catholic Order like the Brothers of St John of God would come to Aotearoa New Zealand to do good work and would not cause harm.

5. This meant that the Order and those who represented it, operated seemingly with minimal accountability from the State or the wider church. From the outset, the Order apparently felt free to operate differently from other care providers at the time. For example, on establishment, the Bishop of Christchurch felt able to request a law change to set Marylands up in a way that suited the Order's purposes. Later, Marylands sought State funding in excess of that provided to other, comparable care providers.

6. Liz Tonks from the Network of Survivors of Abuse in Faith-Based Institutions and their Supporters (the Network), said:

"State agencies and unsuspecting Catholic parents trusted this church and gave over their care of their children to this institution at Marylands and many other places across New Zealand. Their trust has been devastating, has had devastating consequences for a significant number of the children placed in the care of the church."[901]

[901] Transcript of the closing submissions of the Survivors Network of those Abused by Priests in Aotearoa New Zealand from the Marylands School public hearing, TRN0000417 (Royal Commission of Inquiry into Abuse in Care, 17 February 2022), p 45, pp 613.

7. This high level of trust meant that offending was less likely to be detected. The brothers were highly respected and trusted by the Christchurch community and throughout Aotearoa New Zealand.[902] As a result, they were largely left to run their own affairs. On behalf of the Network, Dr Murray Heasley said:

"The Catholic Church is a comfortable environment for paedophiles. A lot of offenders seek situations where they can have access to children and where they have authority. So they have access, they have authority and they have the cover of a very respected profession."[903]

8. Monitoring and oversight was almost non-existent and when victims reported abuse, whether to teachers, social workers, police or parents, they were less likely to be believed. Many boys disclosed to people in a position to intervene but were not believed and the abuse continued. As a result, abusers from the Order, representing the church, operated with impunity. When one victim told his parents about the abuse, he was "told to stop lying" and "hit for it because I was told priests do not touch little boys".[904] One survivor said:

"I never told my parents. I did not think my parents would believe me. I do not think anyone would have believed me. The brothers were respected in the community. They would have been believed over us boys."[905]

9. This wider power and authority of the Catholic Church and the Order was also used by some members of the Order as a way to control victims. Boys were told by the brothers that the abuse was their secret and that if they did disclose the abuse, no one would believe them. Steven Long was threatened by Brother McGrath and feared the consequences of disclosing the abuse:

"Brother McGrath would always threaten me to keep my mouth shut, and told me that no one would believe me if I said anything. We always knew that there would be repercussions for doing so, as we had all seen what Brother McGrath did. He put the fear into us all."[906]

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[902] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 44.
[903] Transcript of the closing submissions of the Survivors Network of those Abused by Priests in Aotearoa New Zealand, TRN0000417, p 43, pp 611.
[904] Witness statement of Darryl Smith, WITN0840001, paras 45–46 and 77.
[905] Witness statement of Mr DJ WITN04130001 (Royal Commission of Inquiry into Abuse in Care, 23 April 2021), paras 6.37–6.38.
[906] Witness statement of Steven Long, WITN0744001, para 37.

10. Mr ES, a Hebron Trust survivor, was also told that he would not be believed if he reported the sexual abuse:

"On the second time Brother McGrath called me into his office, Brother McGrath sodomised me. After this, he threatened me again, saying that if I told anyone about what had happened, he was in with the police, and no one would believe me."[907]

11. Darryl Smith was seven years old when he was raped by Brother Keane. Darryl recalls being told: "don't tell anyone not even your parents and if you do, they will not believe you anyway."[908]

12. The power, authority and respect enjoyed by priests and religious leaders in the Catholic Church extended to Brother McGrath's work at Hebron Trust. Brother McGrath commanded respect in the community. He wrote letters to judges in support of youth in his care, signing them as "Bernard McGrath, O.H."[909] The abbreviation 'O.H.' stands for "the Hospitaller Order of the Brothers of St John of God".[910] He attended Family Group Conferences as a support person, and supervised youth justice clients on remand, or while they were carrying out community work at Hebron.[911]

13. The trust and respect given to the church, the Order and Brother McGrath as a religious youth worker and a father figure to troubled young people was a key tool in abuse being able to occur.[912]

Ko ngā waiaro o te pāpori ka kitea i te āria o te tinana pakari i taua wā Society's attitudes reflected the ableism of the time

14. Ableism creates an ideal type of the perfect body and perfect mind to which all must strive. The closer one is to these ideals, the greater privileges they enjoy. Societal attitudes, reflecting ableism, disableism, audism, discrimination and 'othering', led to the large-scale institutionalisation of people into disability, Deaf and mental health care settings, including special schools.[913]

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907 Witness statement of Mr ES, WITN0734001, para 14.
908 Witness statement of Darryl Smith, WITN0840001, para 39.
909 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 285.
910 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 285.
911 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 285.
912 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 286.
913 For further background information on the care of Deaf and Disabled people, see: He Purapura Ora, he Māra Tipu, from Redress to Puretumu Torowhānaui, p 40–44.

15. These views underpinned the legislation and the policy behind institutionalisation. Families were not properly supported to provide home care, and the State's education department had not developed suitable local options for children who needed additional education or learning support. This led to State and private placement of disabled children into institutions and special schools where they were exposed to abuse.

16. Disabled children's developmental needs were not considered important. Their specific health, educational, and social needs were not understood and were neglected. Local schools and teachers had not been equipped and trained to educate them, and families of non-disabled children generally didn't want disabled children in their school.

17. We've heard from several parents who placed their sons at Marylands as their children were not adequately supported by mainstream schools. Ms IO felt that her son was being denied an education and that she had no other choice but to move her disabled son to a specialist boarding school. She said:

"From 6 – 7 1/2 years my son attended a School. They had difficulty dealing with him so advised us that he couldn't continue there because he was taking up too much of the teacher's time.

I knew I had to put my son into boarding school, or he would never have grown up and learnt how to fit into society. The education system, being what it was at the time, wouldn't have taken him any further because he was viewed as being disruptive in class and taking teachers time away from 'normal' children."[914]

18. Bill McElhinney's son was at a special needs unit within a mainstream intermediate school before it was decided that his son's needs would be better supported elsewhere:

"[T]he school wasn't happy handling him due to the amount of medication he had to take, and the final straw came when he jumped from one bench to another and broke his nose. That's when he moved to St John of God, Marylands."[915]

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914 Witness statement of Ms IO, WITN0558001, paras 26–28.

915 Witness statement of William McElhinney, WITN0931001 (Royal Commission of Inquiry into Abuse in Care, 3 March 2022), para 1.9.

Te kaikiri, te korenga o rātou i whakamana i te ahurea, te reo me te whānau
Racism, disregard of culture, language and whānau

19. The discriminatory and negative attitudes, particularly towards Māori students, reflected the widespread discrimination in society:

"Back then, discrimination against Māori was pretty bad so Dad used to pretend he was Italian. We weren't encouraged to advertise our Māori identity."[916]

20. These attitudes contributed to an increasingly large number of Māori being taken into care by the State and, when placed in care, led to targeted abuse and cultural neglect. Brother Graham described the brothers' training:

"[T]here was no education on the indigenous / first nations peoples of either New Zealand or Australia. Unfortunately, this was the norm in previous decades, not only in religious formation but throughout society generally. There was no training on the cultural needs of any other groups either."[917]

21. There is no evidence that the Department of Education took steps to ensure that students would be provided with culturally appropriate education at Marylands.

22. Targeted abuse within the Order reflected what was occurring in wider society, including racial slurs, violent punishments for use of te reo Māori or Pacific languages, and punishments for any public displays of cultural importance.

"Māori children specifically they hated with a passion. European children were treated with a wee bit of respect, but the Māori children were treated like dirt."[918]

Ngā waiaro ki te hara taitōkai
Attitudes to sexual abuse

23. Society was largely unaware of sexual abuse of children, stemming from the taboo that surrounded the topic. It was considered distasteful to talk about. State agencies and others in decision-making positions did not understand issues around sexual abuse.

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916 Witness statement of Mr AL, WITN0623001, para 2.4.
917 Witness statement of Brother Timothy Graham, WITN0837001, para 60.
918 Transcript of Darryl Smith at Marylands School public hearing, TRN0000412, p 44, pp 42.

"It was all just in my face – erect penises everywhere and love letters to other brothers. It was almost like I was meant to see these things. I think this was a form of grooming and it was totally inappropriate. We were living in a novitiate: a place where men ... are supposed to go to become holy."

- Mr AR
(former brother at Marylands)

24. There was also less awareness of the sexual abuse of boys, and it was often perceived as something that didn't happen to males.

25. The expectation in Aotearoa New Zealand was that abused men were not expected to suffer any ongoing hurt and were told to 'harden up'. We know that boys and men deal with sexual abuse differently, with some data indicating that it takes on average 21 years before males disclose abuse.[919] There were no specific services supporting men who had been abused in Aotearoa New Zealand until the 1990s.

26. Some survivors believe that it was very difficult for boys and men to talk about sexual abuse, particularly when the perpetrator was a man, because of the negative perception of homosexuality. Shame around male sexual abuse and societal attitudes towards male vulnerability has further impacted the number of male survivors being able to discuss the sexual abuse they experienced.

Ngā take o te whakahaere
Institutional factors

27. There were institutional factors within Marylands and Hebron Trust that enabled abuse to occur and created barriers to disclosure:

    - Cultural factors such as the imported culture of abuse, what we now know as ableism, racism and an internal culture within the Order of excess, secrecy and reputational protection.
    - The exploitation of beliefs, religious teachings and the fear of God.
    - Organisational factors including the lack of qualified staff.
    - Environmental factors, such as the isolation both physically and emotionally.
    - The lack of oversight and monitoring by both the State, the wider Catholic Church and the Order.

28. In many ways, the attitudes of the Order mirrored those of wider society.

[919] Romano, E., Moorman, J., Ressel, M., & Lyons, J. (2019). Men with childhood sexual abuse histories: disclosure experiences and links with mental health. Child Abuse & Neglect, 89, 212–224.

I haria mai te ahurea tūkino tangata ki Aotearoa Niu Tīreni nei e ngā parata o te Rangapū o Ahitereiria
Order's Australian brothers brought their culture of abuse to Aotearoa New Zealand

29. The Order's Australian brothers likely brought their culture of sexual abuse with them when they set up in Christchurch in 1955. All five of the first brothers transferred from Australia to work at Marylands were accused of sexual abuse.

30. Trevor McDonald, Mr DA and Mr AL were all sexually abused by Brother Lebler within the first year of opening. Mr AL was also sexually abused by the first Prior of the school, Brother Berchmans.

Te ariā tinana pakari i roto i te Rangapū
Ableism within the Order

31. The Order had a lack of respect for the evolving capacities of the boys and the voice of the boys, their whānau, hapū and iwi.

32. Boys were placed in a segregated learning environment with a lack of trained teachers. What we now know as ableism permeated the institution and meant there were low expectations around educational outcomes. There was no ongoing assessment or support provided for the boys' individual educational needs. Education was not based on a full development of personality but on training.

Te kaikiri ka heipū atu ki ngā tama whakaraerae
Racism and targeting of vulnerable boys

33. The abusive brothers within the Order often targeted the most vulnerable children and young people.

Te Kura o Marylands me te whare whakapani
Marylands School and the orphanage

34. At Marylands and the orphanage, offending was typically against young disabled boys, often when they were at their most vulnerable. Trevor McDonald recalls being sick in bed with the mumps when he was sexually abused by Brother Sebastian.

35. Mr AL told us that he witnessed a boy with Down syndrome aged 6 or 7 being raped by the Prior, Brother Berchmans:

"Under the stairs, the brothers kept extra plates and other kitchen or donated items. One day, I came in from the shower room because I had been at rugby league practice. Brother Berchmans was in there with a young Down syndrome boy. The boy was only about 6 or 7 and he had his pants down, he was crying. Brother Berchmans was sexually abusing him, sodomising him."[920]

36. Māori students, who were a small minority group at Marylands, often experienced targeted cultural abuse. This was sometimes linked to other types of abuse, including sexual abuse.

37. The brothers were not educated about te ao Māori, tikanga Māori or about the cultural needs of any other groups. As was common at the time, neither the State, the Catholic Church nor the Order ensured this training was required or occurred.

38. Boys experienced racial discrimination and cultural neglect. Mr AL recalls being locked in a shed all day at the orphanage because he was Māori:

"One day, we were put into a shed because we were Māori. We just had to stand there all day until the nuns said we could come out. It was a big shed, bigger than a house, that they store potatoes in. They never told us why, they just told us to 'get in there you black buggers'."[921]

Te tarati o Hebron
Hebron Trust

39. The culture at Hebron Trust was different from the culture at Marylands School, as most of the staff at Hebron Trust were lay people. The organisation was also informal, although it was largely centred around Brother McGrath.

40. At Hebron Trust most of the victims of abuse were street kids, many of whom were rangatahi Māori who were in State care or were homeless, with little or broken connection to whānau, hapū and iwi.

41. Tamariki and rangatahi Māori made up a large proportion of those that were cared for by Hebron Trust. Many were particularly vulnerable due to their personal circumstances, characterised by violence, poverty and at times a lack of whānau, hapū and iwi connection or support. This led to isolation, homelessness and a reliance on drop-in or residential housing services, such as Hebron Trust.

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920 Witness statement of Mr AL, WITN0623001, para 5.10.

921 Witness statement of Mr AL, WITN0623001, para 3.8.

42. Brother McGrath was given a lot of freedom to run Hebron Trust as he liked, and he had significant power and influence, which increased over time. By at least 1989, Brother McGrath was firmly in charge of the whole group, and was referred to by the other staff as 'the boss'.[922]

43. Brother McGrath's targeting of Māori and Pacific young people through Hebron Trust was calculated and predatory. Brother McGrath worked to gain access and trust within this community of Māori and Pacific young people in Christchurch while working with Te Roopu Awhina, a drop-in centre for homeless young people and other networks.

44. Brother McGrath records that when he first started at Te Roopu Awhina, he felt he was a 'stranger' in the midst of the young people there who kept to themselves, talked among themselves, and greeted each other in te reo Māori. However, on 28 November 1986 the co-ordinator, Kupa Ngaira, informed Brother McGrath that the young people had had a meeting and wished to welcome Brother McGrath into their 'family'. A pōwhiri was held a few days later.

45. Brother McGrath isolated Hebron Trust residents by targeting those with substance abuse issues. He would act as their advocate throughout the youth justice process, while at the same time continuing to supply them with drugs and alcohol.

46. Justin Taia, a Māori survivor who lived on the street as a teenager told us Brother McGrath would invite street kids to his house for food or a bed. Justin was sexually abused by Brother McGrath "hundreds of times", usually under the influence of drugs and alcohol:

"Before the first rape, and before many of the other ones, Brother McGrath put some sort of drug in my drink, which made me dizzy. He also gave me a lot of alcohol (beer, Jack Daniels and Coke) and pills, like rivvies (Rivotril) as a bribe to get me to do what he wanted and to lower my inhibitions, or as a reward afterwards. He would be nice to me afterwards too, letting me drive his van and things like that."[923]

47. Justin was later placed at Hebron Trust by the Children and Young Person's Court where he was supposedly receiving drug and alcohol treatment. However Justin stated he received no such treatment and that "throughout this time Brother McGrath was actually giving me drugs and alcohol on a regular basis, in order to abuse me".[924]

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922 Te Rōpū Tautoko Marylands Briefing Paper 2, MSC0007268, para 27.

923 Witness statement of Mr Justin Taia , WITN0759001, para 62.

924 Witness statement of Mr Justin Taia, WITN0759001, para 69.

48. Targeting by Brother McGrath (in the same way the vulnerability of children at Marylands had been targeted) and the abuse that occurred at the is a particular affront to Māori values and tikanga.[925]

Te tūkino whakapono
Exploitation of religious beliefs

49. The abusive brothers cynically exploited societal, whānau and individual deference to God (through existing belief systems or the brothers' teachings), the biblical concepts of shame and humiliation and the wider fear of religious punishment or repercussions, to abuse and control the boys and young people.

50. These beliefs and religious teachings were exploited and misused to inflict abuse. Sometimes there was a specific religious aspect to the abuse, with abuse occurring in the Chapel, or brothers saying that the sexual assaults were acceptable to God, or even thanking God during the sexual assaults.[926]

"[Brother McGrath] told Mr HI that he had the devil in him, and he needed to be clean. Brother McGrath also told Mr HI that he wanted to help him. The first episode of abuse took place in the chapel, where Brother McGrath rubbed water on Mr HI and stroked Mr HI's erect penis."[927]

51. The misuse of religious teachings, bible concepts and scripture allowed abuse to occur, but also prevented disclosures by the boys and young people for fear of retribution by God himself.

Te ahurea o te murunga hara
Culture of forgiveness

52. The Order placed a strong emphasis on forgiveness, even for those who committed abuse of children.

53. The Order's constitution treated sexual abuse as a minor sin rather than a major crime. It specifically instructed the brothers to stop knowledge of sexual abuse within its ranks becoming public. The 1977 constitution, applicable worldwide, emphasised an approach of 'fraternal correction' to sexual abuse, which it termed 'immodest conduct'.[928]

54. The constitution required any brother who became aware of another brother's immodest conduct to warn that brother "so that the evil can be corrected and may grow no worse". If the warning did not result in a change of behaviour, the offending

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[925] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 457.
[926] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 118.
[927] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 488.
[928] Constitutions and General Statutes, Hospitaller Order of St John of God, Rome General Curia (1971), Chapter 4 – Chastity and Fraternal Correction, CTH0015272, cl 25.

brother was to be regarded as "one wounded and who must be healed".[929] The constitution required the brother who observed the offending conduct to report it to his superior "who could warn [the offending brother] privately and thus avoid that it be[ing] known publicly".[930]

55. This appeared to justify the practice of moving brothers accused of abuse to another town, city or country or to put them into 'treatment'. Such transfers also had the effect of diffusing publicity or potential publicity about the abuse. Brother Brian O'Donnell, told police in 2003 that the Order's attitude was that: "a sinner can repent and be forgiven and give up sinning … [i]f he were transferred elsewhere, it would be in the nature of giving him a chance to turn over a new leaf."[931] However, the Order appeared to take limited, if any, measures to safeguard those in its care at this new location from the possibility that the brother did not, in fact, turn over a new leaf.

56. The high rates of child abuse found in both the Australian sexual abuse inquiry and in our investigation point to fundamental failings in some Catholic Church entities around the historical attitudes to children and treating abuse as a sin, rather than a crime.

Karekau he pūkenga, he tohungatanga
Lack of skills and expertise

57. The Order's public facing image was of a caring and skilled group of men looking to do good in Aotearoa New Zealand. The Order had a preoccupation with its reputation over the wellbeing of victims. The Order groomed the public, convincing those in power that its public image, of being caring and skilled, was genuine and real.

58. The Minister of Education told the Minister of Health in September 1960 that: "officers of my department who had had close contact with Marylands hold it in high regard. It is clearly doing work of real importance."[932]

59. In October 1972, the Ministers of Health, Social Welfare and Education, in a joint press release on State funding assistance to Marylands, said that Marylands was: "a centre which has extremely beneficial effects on the lives and future of disadvantaged members of the community."[933]

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929 Constitutions and General Statutes, CTH0015272, cl 26.

930 Constitutions and General Statutes, CTH0015272, cl 27.

931 Statement of Brian Phillip O'Donnell to NZ Police, CTH0015146, (NZ Police, 24 July 2003), p 5.

932 Report to the Minister of Education, regarding Brothers of St John of God, Maintenance Subsidy – Marylands Home for Retarded Boys, MOE0002089 (29 August 1960).

933 Joint Press Statement from the Minister of Health and Social Welfare and the Minister of Education, regarding Help for Marylands Special School, MOE0002144 (20 October 1972).

60. In November 1972, the Ministers of Health and Education publicly stated that "Marylands plays a welcome role within the educational system". The further funding announced would allow "the school to continue it valuable work".[934]

61. In March 1982 the Member of Parliament for Yaldhust told the Minister of Education (writing to support more State funding for Marylands): "Marylands is performing outstanding service for the handicapped and this work is widely acknowledged in the Christchurch area and beyond." The local member of parliament supported the Prior's approach for adequate funding: "to enable the Order to carry out its important social, educational and community role."[935]

62. The extreme levels of violence, abuse and educational neglect within Marylands was in stark contrast to the way the Order presented itself to the world (both within the Christchurch community and to those with control of State funding).

63. In addition, the brothers were not properly qualified to educate disabled children and were by no means experts in this field.[936] The Order does not hold any formal policies, or other documentation, on the training and education requirements of the brothers or any lay teachers or assistants, at Marylands.[937] The Order did not provide any specific training to the brothers for residential care.[938]

64. Although some parents sent their children to Marylands in the belief that they would receive the best possible specialist care and education for disabled children or children who required additional learning support, the brothers and other staff members were almost always lacking in the relevant skills and expertise.

65. Dr Mulvihill recalled meeting with a mother whose son had been at Marylands.[939] The mother, who was a social worker herself, believed that the school was the best place for him.[940] Marylands was seen as a very innovative educational facility – even though most of the brothers who worked there had no education at all in working with children with special needs, or children who were neurologically diverse.[941]

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[934] Ministry of Education submission in response to the Royal Commission of Inquiry's (notice to produce 25), MOE0002536, p 85–86.

[935] Letter to the Minister of Education enclosing correspondence from Brother Stephen Coakley (Prior), regarding the financing of Marylands, MOE0002477 (19 March 1982) p 1-2.

[936] Transcript of evidence of Dr Michelle Mulvihill, TRN0000414, p 40, pp 316.

[937] Witness statement of Brother Timothy Graham, WITN0837001 (Royal Commission of Inquiry into Abuse in Care, 28 September 2021), para 59.

[938] Witness statement of Brother Timothy Graham, WITN0837001 (Royal Commission of Inquiry into Abuse in Care, 28 September 2021), para 58.

[939] Transcript of evidence of Dr Michelle Mulvihill, TRN0000414, p 22, pp 298.

[940] Transcript of evidence of Dr Michelle Mulvihill, TRN0000414, p 22, pp 298.

[941] Transcript of evidence of Dr Michelle Mulvihill, TRN0000414, p 22, pp 298.

66. In addition, the brothers did not have any particular understanding or recognition of the cultural needs of tamariki Māori, Pacific children or children of other cultural backgrounds who were in their care.[942] There is no evidence the Department of Education took steps to ensure that students would be provided with culturally appropriate education at Marylands.

67. Dr Mulvihill believes that the Catholic Church in Aotearoa New Zealand engaged a group of "untrained religious strangers" to educate children in need of care.[943] She noted that there was one brother in the Order who did have some training in what used to be called 'special education', but most were instead health professionals. She said that the impression that they had expertise in the field of educating disabled children was:

> *"... part of what happens when you get a culture that grooms people believing that they are something they are not, and it goes to their very core. So, this was a situation in which people were untrained and a situation in which also lay people worked. ... So, the window dressing is there, this is the grooming that society, that the New Zealand people, the parents, even the Government and other experts received. ..."*[944]

68. The Order reported that the position improved a little over time. For example, by 1981 a qualified teacher was employed in the Remedial Clinic and was responsible for the assessment of all admissions to Marylands (to identify deficit areas of learning and to assist classroom teachers with remediation programmes).[945] It was reported by the Order that boys with high support needs and multiple learning disabilities received individual attention.[946]

69. There were also lay teachers at Marylands, but they did little to raise the standard of teaching. When the State took over running Marylands in 1984, it was noted that many teachers inherited from Marylands would not have won those positions on the open market as they lacked any specialist qualifications and did not have significant teaching experience.[947]

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[942] Transcript of evidence of Dr Michelle Mulvihill, TRN0000414, p 41, pp 317.

[943] Transcript of evidence of the closing statement of Dr Michelle Mulvihill from the Marylands School public hearing, TRN0000417 (Royal Commission of Inquiry into Abuse in Care, 17 February 2022), p 51, pp 619.

[944] Transcript of evidence of Dr Michelle Mulvihill, TRN0000414, p 40, pp 316.

[945] Ministry of Education submission in response to the Royal Commission of Inquiry's Notice to Produce No. 202: Schedule 2, MOE0002844 (5 July 2021), p 5.

[946] Ministry of Education submission in response to the Royal Commission of Inquiry's Notice to Produce No. 202: Schedule 2, MOE0002844 (5 July 2021), p 5.

[947] Brief of evidence of Helen Hurst, WITN0099003 (Ministry of Education, dated 7 October 2021), para 4.24(b).

70. When Trevor McDonald was asked about the education at Marylands, he responded:

"Didn't have any, simple as that... They had us making nail boxes, tomato boxes, on looms making scarves, making rugs, everything for their faith. We were little slaves.

They had a classroom there, all done up, to make it look right, but we never learnt anything. If someone special came, they'd have us in the classroom making out that they were teaching us. When they were gone, we were out picking potatoes and working in the crops. We were just little slaves. No education."[948]

Ahurea noho mū
Culture of silence

71. Abusers occupied positions of power within a strict hierarchy that made it difficult for lower-ranked brothers to raise objections or make complaints, and easy for abusers to protect themselves and others from accusations of abuse.

72. A culture of silence prevailed. Junior brothers were discouraged from questioning more senior brothers, particularly those in leadership positions.[949] All brothers were discouraged from criticising those in higher positions than themselves.[950] Brother William Lebler, for example, in correspondence with the then Provincial in April 1956, noted he was afraid to approach his superior, Brother Berchmans Moynahan, and requested he be relieved from his appointment at Marylands. In his July 1956 response, the then Provincial noted to Brother Lebler "how dangerous or wrong it is to write or discuss anybody" and was chastised for writing a letter that condemned the Prior of Christchurch. Mr AR said a "very controlled and powerful hierarchy" operated within the Order, and "even as a 38-year-old man with a lot of life experience, I was initially at the bottom of the heap".[951] He said others used to look down on him, and he was treated accordingly. Brothers would say to him that if he wanted the Order "to be mine, I needed to go along with the programme."[952]

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[948] Pre-recorded video recording of Trevor McDonald, played during the Marylands School public hearing, TRN0000415 (Royal Commission of Inquiry into Abuse in Care, 9 February 2022), p 93, pp 454.
[949] See, for example, the two letters in 1956 between Brother Lebler at Marylands and the then Provincial, CTH0011779_00056 (10 April 1956) and CTH0011779_00054 (19 July 1956).
[950] Letter from Brother William Lebler to the Provincial, CTH0011779_00056, p 1; Letter from Provincial to Brother Lebler, CTH0011779_00054, p 1.
[951] Witness statement of Mr AR, WITN0901001, para 6.7.
[952] Witness statement of Mr AR, WITN0901001, para 6. 7.

73. This culture, combined with the lack of any statutory duty requiring mandatory reporting of child abuse, led to the failure to report to police or other authorities. It reinforced to the abusive brothers that no one within the Order or in wider society would stop their behaviour.

74. At Hebron Trust, complaints of sexual abuse were ignored, and Hebron residents were disbelieved by the staff. Andrew Downs, who worked as a programme co-ordinator at Hebron Trust between January 1990 and October 1993, recalls a meeting that was held after the 1991 allegations of sexual abuse against Brother McGrath came to light:

"The staff were very protective of Brother Bernard and again, I felt like the goal was to cover everything up. In the meeting, we were told that the enemy is within. The implication was that people disclosing abuse by Brother Bernard were doing the wrong thing; they were the enemy."[953]

75. Dr Mulvihill described as "indefensible and unforgivable" the brothers' "attempts to protect their outrageous wealth, deviant sexual behaviour, obedience to closing ranks, and hostile displays of cold and inhospitable treatment of victims to this day".[954]

76. The Order had an established practice of not recording criticisms of brothers, and those who committed allegations to paper were admonished for doing so.[955]

77. Instead, the brother would inform the Prior or Provincial of an abuse allegation, and the Order would make no written record of it. As a result, memories became blurred, and no picture emerged of the extent of the abuse within the Order. Brother O'Donnell confirmed to police in 2003 that "no allegations of sexual misconduct [were] ever documented and … held in archives", and it followed this practice so as not to compromise "the good name of the person in the future".

78. Written records were occasionally made, but they were sometimes destroyed. In 1977, for example, Brother O'Donnell deliberately destroyed two letters sent to him alleging sexual abuse by Brothers Moloney and Brother McGrath. In 2014, Brother Timothy Graham, the Order's current Provincial, told the Secretary General in Rome, Brother André Sène, to delete correspondence from an Aotearoa New Zealand survivor.[956]

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[953] Witness statement of Andrew Downs, WITN0766001 (Royal Commission of Inquiry into Abuse in Care, 4 October 2021), para 50.

[954] Transcript of evidence of Dr Michelle Mulvihill, TRN0000417, p 52, pp 620.

[955] Letter from Provincial to Brother Lebler, CTH0011779_00054.

[956] Letter from Brother Timothy Graham to Brother André Sène, Secretary General in Rome, regarding advice from Brother Timothy Graham to delete any material Brother André Sène should receive from ex-Marylands student, CTH0015056 (11 December 2014).

79. As a result of the lack of recording, there is insufficient data on ethnicity, disability and age of survivors who attended institutions run by the Order, as well as a complete lack of records relating to reported abuse both at the time of offending or later.

Ahurea whakapohapoha
Culture of excess

80. A culture of excess and entitlement existed at Marylands. Mr AR, a former brother at Marylands, told us he recalled Brother Graham once telling him the closeness and bonds of brotherhood "is what it's all about".[957] The welfare of those they cared for took second place. For this reason, the brothers at Marylands ate separately from the children[958] and breakfasted on bacon and eggs prepared by children, who ate porridge.[959]

81. Mr AR said the brothers would drink, smoke and enjoy fine dining at expensive restaurants.[960] He said one brother in Australia refused to eat at home, contending "the world is your oyster" and instead "liv[ed] the [high] life".[961] Mr AR recalled coming home from work one evening and saw a sign on the kitchen door saying, "Do not open, we are praying". He pushed back the door and saw a newly installed $5,000 spa pool in which a group of brothers were 'praying'.[962] He said brothers consumed huge amounts of alcohol, and some had gambling addictions.[963]

82. James Tasker, who was sent to the school at 14, said that every Sunday the brothers "used to get plastered from the wine. I could smell the alcohol on them. On Sunday there would be an early Mass [and] from then on, they would drink. The 5pm Mass got cancelled because they were pissed." [964]

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[957] Witness statement of Mr AR, WITN0901001, para 6.13.

[958] Transcript of evidence of Steven Long from the Marylands School public hearing, TRN0000411 (Royal Commission of Inquiry into Abuse in Care, 9 February 2022), p 69, pp 67.

[959] Witness statement of Mr CB, WITN0813001, para 4.24.

[960] Witness statement of Mr AR, WITN0901001, para 6.10.

[961] Witness statement of Mr AR, WITN0901001, para 6.10.

[962] Witness statement of Mr AR, WITN0901001, para 6.11.

[963] A witness statement from a past employee of St John of God in relation to Operation Authority Police investigation, NZP0028067 (NZ Police, 10 October 2003), p 3. In addition, one former Marylands staff member told police during Operation Authority that Brother Timothy Boxall was concerned in the late 1970s that Brother Luke Bohun, who was in charge of the hospital, was drinking excessively and that another brother had a drinking problem. See also: A witness statement, NZP0015768 (NZ Police, undated), p 15. A survivor recalled the smell of alcohol on Brother Lebler's breath during sexual assaults; Dr Gerardine Taylor Robinson, clinical psychologist, Director of Encompass Australasia, Psychological evaluation of Brother William Lebler, CTH0011782 (17 May 2001), p 4. An Encompass report noted that Brother Lebler was an alcoholic and had attended a three-month rehabilitation programme in the United States in 1982.

[964] Witness statement of James Tasker, WITN0675001, para 26.

83. Brother Damien John Walsh (known as Brother Ephrem) told police in 2003 that one of the first things to strike him about the school when he arrived was the volume of alcohol the brothers consumed. He had never drunk whiskey before going there "but soon got used to it".[965] Whiskey and red wine were the favourites, and the whiskey "would be obtained in half-gallon jars". Drinking took place most nights between 8pm and 9pm: "That was our big happy hour."[966]

84. A lay member of the Christchurch community said her father, a police officer and an alcoholic, used to drink with the brothers, and she recalled her mother saying her father used to go drinking at Marylands because the brothers "always had the top shelf".[967]

Te noho whakamohoao
Isolation

85. The orphanage and Marylands were physically isolated from the community. Boys at Marylands were away from their own whānau, and community and were geographically and socially isolated. There were few visits from the State and when there were visits, boys were not spoken to alone. This isolation allowed a culture of abuse to flourish and minimised the risk that perpetrators would be uncovered.[968]

86. One survivor described how the isolated location prevented Marylands pupils from seeking help:

"When people ask me why we never got any help, I just answer that we couldn't. We were isolated and surrounded by farmland. We weren't allowed out of there and no one was allowed in."[969]

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[965] Written statement of Brother Damien Walsh (known as Brother Ephrem Walsh), CTH0013807 (15 August 2003), p 5.
[966] Statement of Brother Damien Walsh, NZP0027602 (NZ Police, 12 June 2003), p 4.
[967] Witness statement of Ms FF, WITN1292001 (Royal Commission of Inquiry into Abuse in Care, 28 April 2022), para 16.
[968] Parkinson, Professor P, and Cashmore, Professor J, Marylands School: Expert Report for the Royal Commission of Inquiry on Abuse in Care (2021), MSC0007460, p 35.
[969] Witness statement of Mr AL, WITN0623001, para 7.3.

Te aroturuki me te aronga kore
Monitoring and oversight

He iti noa iho ngā aronga koretanga a te Kāwanatanga
There was minimal oversight by the State

87. There was minimal oversight by the State of State wards at Marylands and Hebron Trust.

88. The Department of Social Welfare and Department of Education's Child Welfare Division did not adequately monitor State wards placed at the school to ensure children were safe, happy and thriving. Neither the Department of Social Welfare or the Department of Education's Child Welfare Department audited or inspected the school[970] as there was no requirement to do so. The Department of Education was required to monitor the school in accordance with the regulatory framework governing private schools under the Education Act. Before 1964, inspections were required annually and from 1964 onwards, once every three years. The Ministry of Education was only able to locate records of two inspection reports for Marylands carried out by the Department of Education for the years Marylands was operating between 1955 and 1984.

89. Many survivors had no memory of any contact with a social worker while at Marylands. Mr HZ said he had no recollection of talking to social workers while at the school. Indeed, the only outside adults he had contact with were "the women who cooked for us and looked after the dormitories".[971]

90. In some cases, even the initial placement at Marylands appears to have been poorly considered, with some survivors questioning why the State allowed them to be placed at Marylands when they did not identify as having a disability.

91. Trevor McDonald was among the group of boys that were transferred from the orphanage to Marylands. Like the others, he did not identify as having a disability. There is no evidence to suggest that the State questioned the suitability of placing non-disabled boys who had aged out of the orphanage, at Marylands.

92. Trevor described feeling that the purpose of their placement was not to receive education or training, but to support the running of Marylands:

"We were in the wrong place at Marylands, we had no disabilities but other children at Marylands did".[972]

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970 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 14.

971 Witness statement of Mr HZ, WITN0324015, para 58.

972 Witness statement of Trevor McDonald, WITN0399001 (Royal Commission of Inquiry into Abuse in Care, 22 April 2021), paras 3.8.

"Marylands was a school for children with learning difficulties. The boys who made up the initial roll and I had no disabilities though. We were only there to look after the other kids and to work for the brothers."[973]

93. Some social workers considered they had only a limited role in supervising boys who were placed at Marylands or the orphanage, even for those in State custody.[974] One social worker noted on the file of a State ward that he was "nominally on the case load only as he is living at [the orphanage]".[975] Typically, boys sent to Marylands by the State had a child welfare officer or social worker in their home district,[976] and the Department of Social Welfare's Christchurch district office acted as a 'go-between' for the school and the home district social worker.[977] Home district social workers were apparently responsible for visiting and reporting on such boys,[978] and the Christchurch district office was responsible for arranging annual progress reports from the school and passing these to the home district officer.[979] Cooper Legal said communication between the Christchurch district office and the home district officer sometimes completely broke down.[980]

94. Peter Galvin from Oranga Tamariki told us home district officers had to visit State wards at least once every four months, although they were expected to visit weekly at the start of a placement, reducing to perhaps fortnightly and eventually four-monthly visits.[981] The reality, as evidenced by a review of a sample of files, was that social workers on average only met the minimum requirement of three visits a year. In addition, social workers' monitoring visits did not always take place at Marylands itself. They could also take place in a boy's home district when he was back for holidays.[982] Mr Galvin said most apparently did.[983] The policy was four-monthly visits to the school, but, in practice, social workers' visits were geared around the school holidays.[984] Social workers might make two 'visits' during the holidays, then none for a long time afterwards.[985]

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[973] Witness statement of Mr AL, WITN0623001, para 3.12
[974] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 41.
[975] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 42.
[976] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 19.
[977] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 19.
[978] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 19.
[979] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 19.
[980] Transcript of evidence of Sonja Cooper and Sam Benton of Cooper Legal, TRN0000414, p 67, pp 343.
[981] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 20; Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 563.
[982] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 21; Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 561.
[983] Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 95, pp 561.
[984] Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 96, pp 562.
[985] Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 96, pp 562.

95. According to Cooper Legal, social workers viewed these home visits as 'check-ins'. Social workers saw State wards when they returned to their home district for holidays and essentially that counted as a visit to check up on how the boy was doing at both home and at Marylands.[986]

96. Social workers who visited Marylands did not always see every boy on their caseload, and they rarely spoke to boys without a brother present.[987] The Department of Social Welfare did not suggest or require social workers to speak to a boy away from the brothers.[988] Cooper Legal said few of its clients ever recalled social workers speaking to them at the school and certainly not without a brother present.[989] It said a Christchurch-based social worker also had some oversight of the school and would sometimes visit, but the records were unclear about whether this person spoke to the boys on their list.[990]

97. Mr Galvin said the Department of Social Welfare and the Department of Education's child welfare division were under no obligation to visit children and young people who did not have some formal legal status with them.[991] Survivor Danny Akula said the Ministry of Social Development concluded no breach of duty of care or practice failure had occurred over his placement at Marylands because he had no formal status with either State agency at the time. But he said Cooper Legal described this argument as self-serving and one put forward by the ministry every time the extent of the Department of Social Welfare's duty of care was tested before the courts. He also said Cooper Legal "pointed out that such arguments had failed in previous cases before the courts".[992]

98. Another survivor, Steven Long, told us social workers visited him "every now and then" at Marylands, but "never" spoke to him alone or asked if he was happy and well cared for. He said social workers "just relied on what the brothers told them about how I was getting on, even though I was a State ward."[993]

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986 Transcript of evidence of Sonja Cooper and Sam Benton of Cooper Legal, TRN0000414, p 67, pp 343.
987 Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 41.
988 Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 96, pp 562.
989 Transcript of evidence of Sonja Cooper and Sam Benton of Cooper Legal, TRN0000414, p 67, pp 343.
990 Transcript of evidence of Sonja Cooper and Sam Benton of Cooper Legal, TRN0000414, p 67, pp 343.
991 Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 26.
992 Witness statement of Danny Akula, WITN0745001, paras 234 and 244.
993 Witness statement of Steven Long, WITN0744001, para 50.

99. Hebron Trust, on the other hand, was a third-party provider, and was approved as a Child and Family Support Service under the s396 Approval Scheme of the 1989 Act, which formalised a process where the Department of Social Welfare used third-party programmes to care for children. From 1992, Hebron Trust was approved as an accredited provider under the Community Funding Agency within the Department of Social Welfare. Cooper Legal described the requirements placed on the third-party providers:

"Under the 1989 Act, programmes or organisations had to meet a number of requirements before they could be contracted, and paid, to care for children who were under the custody or guardianship of CYFS. The scheme also provided for complaints to be investigated and the approval of an organisation suspended or cancelled, if necessary. While this sounded good in theory, the practice sometimes went horribly wrong."[994]

100. Cooper Legal detailed the difficulties between the state and the third-party providers with regards to monitoring:

"The division between 'front line' social workers and the Community Funding Agency created different measures of expectation. Complaints were not properly investigated and, even when complaints were substantiated, programmes continued to be used to care for children. Further abuse was the inevitable result.

The use of these kind of organisations has, at times, caused MSD to say it is not responsible or liable for the things that happened to people on these programmes. This is even where the children or young people were in the custody or under the supervision of CYFS, and where CYFS approved the programmes."[995]

101. A survivor, Justin Taia , said he was under the supervision of the Department of Social Welfare while at Hebron Trust house, however he was not assigned a social worker for most of the 12-month period, during which he was being sexually abused by Brother McGrath.[996]

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[994] Brief of Evidence of Sonja Cooper and Amanda Hill on behalf of Cooper Legal, WITN0094000, (Royal Commission of Inquiry into Abuse in Care, 5 September 2019), para 34.

[995] Brief of Evidence of Sonja Cooper and Amanda Hill on behalf of Cooper Legal, WITN009400 paras 35–36.

[996] Witness statement of Sonja Cooper and Sam Benton of Cooper Legal, WITN0831001, para 364.

102. Mr Galvin detailed the complaints policies required by Hebron Trust, however, that there was no obligation for accredited providers to notify the Community Funding Agency:

"The CFA Level One Standards in 1992 required the Hebron Trust to have a clear and understood grievance procedure for dealing with complaints from children, young people and families and a clear policy for dealing with any client's allegations of abuse from staff and caregivers. There does not appear to be a requirement in the CFA Level One Standards for Approval for a service provider to notify the CFA of any allegations or concerns received."[997]

103. Mr Galvin said that between 1990–1992: "it wasn't necessarily our social workers who were working with those children [at Hebron Trust]."[998] However, we know that live-in social workers employed at Hebron Trust were funded by the Department of Social Welfare.

Ētahi atu wā kāore te Kāwanatanga i noho ki te āta whakatikatika
Other missed opportunities for State intervention

104. Police picked up boys who ran away from Marylands and returned them, without keeping proper records about these events, and without asking or investigating why the boys were running away. Mr AL recalls running away often but was usually picked up by police and then disciplined by the brothers on their return. Mr AL said:

"I can remember being found by the police and returned to Marylands. On our return, we were physically disciplined by Brother Berchmans."[999]

105. Mr HZ and other boys ran away and went to the police station to report the abuse. They were disbelieved and returned to Marylands by police. It appears that no one believed survivors or took any action.[1000]

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[997] Brief of evidence of Peter Galvin for Oranga Tamariki, WITN1056001, para 36.

[998] Transcript of evidence of Peter Galvin for Oranga Tamariki, TRN0000416, p 84–85, pp 550– 551.

[999] Witness statement of Mr AL, WITN0623001, para 6.12.

[1000] Transcript of evidence of Mr HZ from the Marylands School public hearing, TRN0000411, (Royal Commission of Inquiry into Abuse in Care, 09 February 2022), p 42, pp 40.

Ngā hautūtanga a te rangapū ki whenua kē
The Order's leadership based overseas

106. The province's two most senior leaders (Prior General and Provincial) were based in Rome and Australia respectively. This distant and intermittent oversight meant brothers in Christchurch were not closely supervised. There was little risk that their behaviour would be uncovered. It also meant that children, young people and their whānau were less able to disclose their abuse and neglect to the Order.

Te Pīhopa Katorika o Ōtautahi
The Catholic Bishop of Christchurch

107. The presence of the Order in Aotearoa New Zealand was facilitated by the Bishop of Christchurch:

- The Order expanded from Australia to Aotearoa New Zealand in 1954 at the invitation of the New Zealand Catholic Bishops.
- In 1954, Bishop Joyce consented to the Order setting up a school for disabled boys in Christchurch. He officially offered the Marylands site to the Order and later transferred the property to the Order.[1001]
- In 1955, Bishop Joyce successfully lobbied the State resulting in an increase in funding of Marylands School.[1002]
- In 1983, Bishop Ashby accepted the Order's request to withdraw from Marylands and transfer the running of the school to the Department of Education.[1003]
- In 1986, Bishop Hanrahan attended a planning meeting held by the Order about whether, and in what form, it should continue to operate in Aotearoa New Zealand.[1004]
- Bishop Hanrahan later invited the Order to establish a youth ministry in Christchurch, which led to the establishment of Hebron Trust.[1005]
- Bishop Hanrahan sought funding for the work, largely through community grants and later State funding for staff and other costs.[1006]

[1001] Letter from the Bishop of Christchurch to Archbishop Liston, CTH0015143_00005, p 1.

[1002] Letter to from S. G. Holland (Prime Minister) to Bishop Joyce regarding Government funding of Marylands School, CTH0015141 (22 November 1955), p 17.

[1003] Letter from Brother Raymond Garchow to Bishop Ashby, CTH0016753.

[1004] A programme to discern the future of our Order in New Zealand, 17 to 18 January 1986, CTH0016720, pp 1 5, See also: Letter to Bishop Hanrahan from Brother Leahy, CTH0016721.

[1005] Transcript of opening statement of Sally McKechnie on behalf of the Bishops and Congregational leaders of the Catholic Church in Aotearoa New Zealand represented by from the Marylands School public hearing, TRN0000411 (Royal Commission of Inquiry into Abuse in Care, 9 February 2022), p 21, pp 19.

[1006] Te Rōpū Tautoko Marylands Briefing Paper 2, MSC0007268, para 12; See also Hebron Youth Trust, CTH0012268, Catholic Social Services (14 June 1989), p 25.

108. To the extent required, the Bishop of Christchurch failed to provide adequate oversight over the Order's operations at both Marylands and Hebron Trust.

109. In addition, once the reports of abuse became public knowledge in 2002, Bishop Cunneen failed to take any responsibility for the Order's conduct. Instead, he expressed discontent for the media attention and spoke out to protect the reputation of the church. Bishop Cunneen issued a public statement that he felt "saddened by the inaccuracies and lack of balance in some of their reporting."[1007]

110. Dr Mulvihill told the Inquiry that there was no attempt made by Bishop Cunneen to assist the Order when Br Burke and Dr Mulvihill were responding to the allegations and nor any assistance to provide adequate redress. Dr Mulvihill spoke to Brother Burke after he met with the Bishop. She recalls that: "Brother Burke was upset after the meetings as a result of the Bishop's unwillingness to become involved."[1008]

Ngā āhuatanga hāngai
Relational Factors

111. Sexualised behaviour and abuse was normalised between the brothers and the children. There was a power imbalance in the relationships between the children placed in care at Marylands, Hebron Trust and the orphanage, including survivors of abuse, and other people in the care systems, including the brothers, nuns, social workers, the State, officials and parents.

Whanonga āki taihemahema me ngā tūkinotanga i noho māori i waenga i ngā parata me ngā tamariki
Sexualised behaviour and abuse normalised between the brothers and children

112. Harmful sexual behaviour and abuse was rampant in the culture of how Marylands and Hebron Trust operated. It was openly tolerated and to a certain extent regarded as normal, despite the fact it was contrary to the law, societal morals and the Order's vow of chastity.

113. In some cases, sexualised behaviour occurred even during the brothers' training. Brother McGrath told police he was groomed and sexually abused by Brothers Moloney and Berchmans during his own training with the Order.

[1007] Response from Bishop John Cunneen to Geoff Collett, Christchurch Press, regarding the 2002 reports of abuse by brothers of the Order of St John of God, CTH0014204 (28 June 2002), p 27.
[1008] Witness statement of Dr Michelle Mulvihill, WITN0771001, para 114.

114. Mr AR, a former brother within the Order described his experiences during training:

"It was all just in my face – erect penises everywhere and love letters to other brothers. It was almost like I was meant to see these things. I think this was a form of grooming and it was totally inappropriate. We were living in a novitiate: a place where men … are supposed to go to become holy."[1009]

115. At Marylands, sexual abuse was commonplace, and sometimes deliberately took place in plain view of others. Mr HZ, a survivor, said he believed this sexualised culture probably contributed to the collusion among brothers in sexually assaulting boys at the school and orphanage.[1010]

116. Boys sexually abused by brothers began to abuse other boys, multiplying the number of victims. Many people knew about the abuse, and knowledge was widespread among Marylands students. One survivor, James Tasker, said he was aware from the outset that a "huge amount" of sexual behaviour occurred between the brothers and the boys and between the older and younger boys.[1011] Another survivor said Brother McGrath and Brother Moloney 'normalised' such sexual abuse, and he "became involved in similar sexual activity with other boys":

"The brothers would make us boys perform sexual acts on each other. This included sexual fondling and oral sex … At the time I thought that this must be exactly what boarding school was like, because it was so common and normal at Marylands. Looking back at it now, I realise that this isn't normal behaviour … sexual indecencies between the boys were common and this behaviour occurred even when the defendants were not present. It seemed 'normal' and I was often involved in this type of behaviour."[1012]

117. At Hebron Trust, it was well known between the residents that Brother McGrath would sexually abuse newcomers.

[1009] Witness statement of Mr AR, WITN0901001, para 6.29.

[1010] Witness statement of Mr HZ, WITN0324015, para 8. Witness statement of Mr DG, WITN0503001, para 7.

[1011] Witness statement of James Tasker, WITN0675001, para 38.

[1012] Witness statement of Mr DG, WITN0503001, paras 41–42 and 48.

118. Mr IS told the Inquiry that not long after his first week at Hebron Trust, he was approached by another resident regarding Brother McGrath's sexual advances:

"Back at Halswell Road, I remember one of the Hebron boys asking me if I have had a 'special cuddle' from Brother Bernard yet. I had no idea what he was talking about."[1013]

Mana titoki
Power and control imbalance

119. The brothers and staff at Marylands exercised full control over the day-to-day lives of the children at Marylands. They told them when and what to eat, when to sleep, when to work and when they could see members of the outside world, including their parents and wider whānau. The brothers abused this control, creating an environment of terror and fear, strengthening the power imbalance.

120. A further imbalance existed between the children and young people and the system itself, the church and the State. At Marylands and the orphanage, the boys' only access to the State, was the occasional social worker and police, who often failed to act on reports of abuse. The children and young people were not given a voice, they were not asked what they wanted or needed and more importantly, they were not asked if they were safe.

Ngā take ā-whānau, ā-takitahi
Individual and whānau factors

121. There were factors relating to individuals and the disempowerment of children and their whānau, specifically:

    (a) the behaviours of the abusers

    (b) barriers faced by survivors and their lack of rights and voice

    (c) discrimination and disempowerment of children, especially disabled children

    (d) disempowering of whānau in decision-making.

[1013] Witness statement of Mr IS, WITN0972001, para 5.7.

Ngā whanonga o te kaihara
Abuser behaviour

122. The behaviours of the abusive brothers were predatory, deliberate, manipulative, and showed a complete disregard for the powerlessness and vulnerability of their victims for their own sexual gratification.[1014]

123. They were educated, and fully appreciated the gravity and wrongfulness of their actions using many techniques to ensure a victim's silence.[1015]

124. They were able to exploit the safeguarding inadequacies within the systems at Marylands and Hebron Trust.

125. Their behaviours appeared to be endorsed by the wider approach of the church through the minimisation of crimes, the secrecy of confession, and an "act of contrition or reconciliation with God" over punishment or prevention of further abuse, including through a complete lack of reporting to police.

126. The manipulation extended beyond the boys and in Brother McGrath's case, young people, to the whānau and the wider Christchurch community. The abusive brothers were not only able to carry out and disguise the sexual abuse, but the perception of them was also as exceptional, upstanding members of society.

Ngā whakapōreareatanga i rangona ai e ngā purapura ora, te takahi mana me te toihara
Barriers faced by survivors, discrimination and disempowerment

127. Society devalued children and young people, and as a result, placed no weight on what they had to say. Māori and disabled children were further devalued by society, resulting in a complete lack of voice or agency.

128. In contrast, there was societal and political deference to the church, and those who represented it. When the church spoke, it was unquestioned. When a child spoke, they were silenced or ignored. This created a significant barrier for the children and young people who were being abused by those in the Order.

129. Some boys who were able and managed to find a voice to tell those in positions of power, including social workers, the police and teachers, were not believed, and were told so. Nothing was done in response to these disclosures, reinforcing that they had no power in speaking out. Many times, such disclosures resulted in further abuse and/or punishment.

[1014] We refer to the research by the Independent Inquiry Child Sexual Abuse, specifically the explorative study on perpetrators of child sexual exploitation convicted alongside others, **Perpetrators | IICSA Independent Inquiry into Child Sexual Abuse for further information on perpetartor behaviours:** https://www.iicsa.org.uk/reports-recommendations/publications/research/perpetrators-child-sexual-exploitation-convicted-alongside-others/executive-summary/perpetrators.html.

[1015] ABC Australia notes from Hugget J summing up at McGrath Trial, CTH0008331, p 50.

130. Children in the care of the Order were labelled as having a disability, despite never being diagnosed. These children and disabled children, or children with learning difficulties, also had no voice, and disclosures went unbelieved or were blamed on their perceived misunderstandings. Some children had no means of communicating, and expressed what was happening to them behaviourally. They were simply labelled as delinquent and not worthy of a voice or rights.

131. The criminal justice system made little allowance for the special circumstances and communication support needs of people with disabilities appearing as witnesses in prosecutions.

Te tāmi i te mana o te whānau ki te whakatau take
Disempowering whānau in decision-making

132. Whānau, hapū and iwi were disempowered to make decisions for their tamariki, and rangatahi. This occurred through the State taking control, removing their children and placing them into care. The iwi, hapū and whānau had no voice or involvement in the decision-making process and were often left powerless. Hapū were unable to exercise tino rangatiratanga over its whānau, tamariki and rangatahi.

133. In addition, disempowerment came from the lack of alternative options. Whānau of disabled children or children with additional support and learning needs, had no local school or home-based support (either financially or physically), and often no alternative options outside institutionalisation.

He kōrero whakakapi
Concluding Statement

134. Sexual abuse as depraved and deep-rooted as that uncovered during our investigation could only exist, flourish and go unpunished in an institution whose culture was as out of touch with everyday morality as the actions of the perpetrators themselves.

135. The combination of all factors outlined above, working together in unison, created the 'perfect storm' where abuse and neglect was able to occur at extreme levels, no one was able to identify what was happening and if they did, no steps were taken to address it.

Nga Whakakitenga: ngā take i takakinotia ai ki ngā mahi tūkino me ngā whakangongo i te wā o te noho taurima
Findings: Factors that caused or contributed to abuse and nelgect in care

136. The Royal Commission finds many factors together, contributed to abuse and neglect being able to occur for decades across Marylands and Hebron Trust.

Ngā take papori
Societal factors

137. The societal factors that the Royal Commission finds caused or contributed to abuse and neglect in care are:

    a. At times, society idealised the church and those who represented it were revered, resulting in a misplaced high trust of the Order by the State, the public and whānau. This resulted in the church, the Order and the brothers holding a degree of impunity.

    b. Social attitudes and a lack of understanding of sexual abuse of boys and disabled children prevented and delayed the disclosure of abuse.

    c. Social attitudes, evident in regulatory frameworks, were reflective of eugenics, ableism, disableism, discrimination and institutionalisation of disabled children or children with any learning support needs.

    d. Racism and discrimination, particularly towards tamariki and rangatahi Māori, were continued in the Order's institutions, evident in targeted racial abuse and neglect.

Ngā take whakahaere
Institutional factors

138. The institutional factors that the Royal Commission finds caused or contributed to abuse and neglect in care are:

    a. There was a lack of monitoring and oversight by the State, the Order and the church from the date of application to establish Marylands and the development of Hebron Trust, until Brother McGrath's departure.

    b. There were inadequate safeguarding policies for the tamariki and rangatahi at Marylands and Hebron Trust.

    c. The State failed to act on abuse disclosures by the boys to social workers and police. Tamariki and rangatahi Māori and disabled boys in particular, were not understood or believed.

Rangapū Katorika o Hato Hoani o te Atua

Hospitaller Order of St John of God

139. The factors that the Royal Commission finds the Order caused or contributed to abuse and neglect in care are:

    a. The Order in Aotearoa New Zealand had, at times, a culture of normalised, sexualised and abusive behaviour and sometimes perceived child abuse as a sin that could be forgiven, rather than a crime.

    b. The Order valued its reputation, its institutions and its brothers above all. A strong hierarchy within the Order perpetuated a culture of silence.

    c. The State and the public were successfully convinced that the Order was operating a superior facility, which was the best place for boys, disabled boys and rangatahi, to give them the strongest chance of positive life outcomes.

    d. The Inquiry saw no evidence brothers and teaching staff possessed the necessary skills and expertise to: care for or teach children; support disabled children or those with learning support needs; understand te ao Māori; te reo Māori or te Tiriti o Waitangi nor the nature of the relationship between the Crown and Māori.

Ngā parata o Hato Hoani o te Atua

The St John of God brothers

140. The factors that the Royal Commission finds the brothers caused or contributed to abuse and neglect in care are:

    a. Some brothers within the Order exploited religious beliefs, fear of God and religious teachings to abuse and prevent disclosure of that abuse.

    b. The abusive brothers were predatory and manipulative, deliberately targeting at-risk children and young people and exploiting safeguarding inadequacies for their own sexual gratification.

Ngā tamariki i tukinotia

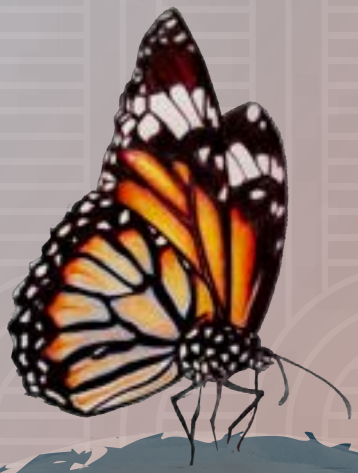
Children exploited

141. The factors that the Royal Commission finds that caused or contributed to abuse and neglect in care of exploited children are:

    a. The environmental, emotional and cultural removal of tamariki from whānau and communities and placement in the physically remote Marylands and the orphanage, meant that in the event of abuse or neglect, disclosure opportunities were reduced.

    b. Children, especially tamariki Māori and disabled children, were undervalued, had no voice and were not understood or believed.

    c. The Order and its brothers had control over every aspect of the children and young people's lives. Tamaraki, rangatahi and their whānau, hapū and iwi were disempowered from being involved in decision-making.



WHAKATEPENGA

Conclusion

Whakatepenga
Conclusion

I. The Order's Oceania province currently has 12 brothers in ministry, with four in Australia and eight in Papua New Guinea. Despite the high rates of abuse and neglect in both Aotearoa New Zealand described in this report and those revealed in Australia, the Order's presence and conduct in Papua New Guinea has yet to be examined.

II. The worst possible abuse and neglect was inflicted on tamariki and rangatahi at the hands of the brothers of the Order of St John of God at Marylands School and Hebron Trust. Survivors, their whānau and support networks, and the whānau and friends of those who did not survive have waited decades for an opportunity to reveal the full story of what happended at the hands of the Order, the church and the State and the abuse and neglect that was endured. Tamaraki and rangatahi who attended these places were utterly defenceless against institutional power, influence and indifference.

III. We have completed our inquiry. As we have already acknowledged, the full extent of abuse will never be known. In this report we find that both the State and the Catholic Church must bear responsibility for the tūkino which has impacted the lives of so many survivors and their whānau and support networks.

IV. The State registered and financially supported Marylands School. It did not ensure that adequate education or safeguarding was provided for the tamariki who went there. The result was abuse, neglect and deprivation of their human rights. The State registered Hebron Trust and State agencies referred rangatahi at risk to Hebron without monitoring or safeguarding them. The State failed to ensure the care provided at both Marylands and Hebron was consistent with the principles of te Tiriti o Waitangi or that the Order was made accountable for the abuse it inflicted.

V. The Catholic Church and the Order established Marylands and Hebron to offer care and support for tamariki and rangatahi but did not safeguard those tamariki and rangatahi in their care or provide them with support, learning or understanding of te ao Māori. The brothers caused immeasurable harm to many children and young people, actively sought to evade accountability and did not consistently provide the support and healing that those in their care deserved.

VI. Brother Timothy Graham made a public apology to survivors during the Marylands hearing in 2022, but we've been told by survivors a few felt that this lacked any meaningful acknowledgement or acceptance of responsibility for the harm done to them.

VII. This report documents how some individual abusers from the Order were convicted of a relatively small number of the hundreds of potential offences revealed to us by survivors or their whānau. But this is not a story about 'bad apples'. This report highlights that the Catholic Church, the Order and State must each bear responsibility for the tūkino that was suffered by so many children and young people, the impacts on their lives, and their whānau and their support networks, because it was the Catholic Church, and State systems and institutions, that shamefully enabled the abuse and neglect, ignored it or covered it up. This report is a raw example of our care systems failing our tamariki and rangatahi. It is also an example of those with power – the Order, the Church and the State – failing to put in place adequate systems and processes to oversee and monitor the care and support being provided and to safeguard our most vulnerable from prolific abusers.

VIII. The Order, Church and State have not yet been held accountable for the magnitude of the tragedy that unfolded at Marylands and Hebron Trust, or for failing to address that tragedy. Without accountability there can be no confidence that such events will not be able to occur again. What we found here reinforces our view that the puretumu torowhānui, holistic redress, system and scheme that we recommended in our December 2021 report must be applied to both State and faith-based institutions.

IX. The findings in this report are a reflection of broader systemic issues that we will address in our Final Report in which we will make recommendations for change.

X. Aotearoa New Zealand must heed the calls for accountability and justice. We must enable a restoration of mana, and for healing to occur. Fundamental changes will be required if we are to ensure that such horrific harm and the repugnant abuse, neglect and exploitation of tamariki and rangatahi does not happen again. Such change will assist Aotearoa New Zealand to become a socially cohesive and inclusive society where whānau are supported to thrive, be healthy and safe, have a sense of whanaungatanga, belonging and are respected.

Glossary
Kupu

Disability Terms

Ableism	Ableism is a form of social devaluation whereby disability and therefore, disabled people are seen to be a problem. If they cannot be 'cured' they need to be kept separate from 'valued' society. When negative assumptions are made about the skills, capacities and interests of disabled people, and when their lived experiences are denied.
Audism	Audism is an attitude based on pathological thinking that results in a negative stigma toward anyone who does not hear; like racism or sexism, audism judges, labels, and limits individuals on the basis of whether a person hears and speaks.
Disablism	Disablism is the specific discrimination arising from the belief that disabled people are inferior to others.
Eugenics	A movement that viewed people with a disability, or non-European features, and certain behaviours as genetically inferior and therefore seen as 'socially inferior' and undesirable.
Othering	"Othering" refers to the process whereby an individual or groups of people attribute negative characteristics to other individuals or groups of people that set them apart as representing that which is opposite to them.
Special Education	Specialised or modified instruction for students with unique learning needs, including students with identified disabilities.

Māori terms

Kāinga	Home, settlement.
Kāwanatanga	Governance.
Manaakitanga	Hospitality, kindness, caring for others.
Tino rangatiratanga	Self-determination.

Tūkino	Abuse, harm and trauma.
Whanaungatanga	Relationship, kinship, sense of family connection – a relationship through shared experiences and working together which provides people with a sense of belonging.

Religious terms

Apostolic visitation	A form of internal Catholic church investigation ordered by the Pope and undertaken by his delegate or delegates.
Archbishop	In some Christian churches, an archbishop is a bishop of the highest rank. Some archbishops have additional responsibilities compared to other bishops.
Bishop	In some Christian churches, the chief pastor or leader of local churches in a region. In the Catholic Church, and in some other denominations, a bishop is appointed as a diocesan Bishop (or 'ordinary') and oversees a geographical area ('diocese'), containing several local churches.
Brother	In the Catholic church, typically a man who is a lay member of a religious institute, who is not ordained. Brothers usually take a vow of poverty, celibacy and obedience. In some religious institutes such as the St John of God Order, Brothers may seek ordination. Even if ordained, the institute may continue to refer to them as 'one of the brothers'.
Canon Law	The body of rules and regulations governing some Christian churches and their members.
Clergy	A body of ordained ministers. In many Christian churches this group includes those ordained as bishops, priests and deacons.

Confession	Also called reconciliation or penance. In some Christian churches, the practice of confession is an acknowledgment of sins in public or private, regarded as necessary to obtain divine forgiveness.
Congregation	An assembly of persons, especially a body assembled for religious worship or habitually attending a particular church.
Contrition	In some Christian churches, it is the practice or an action of sorrow for one's sins.
Fathers	In some Christian churches, men ordained as priests are known by the honorific title of Father.
Holy See	The diocese of Rome, is led by the pope, which has governance over the Catholic church worldwide and also the city-state known as Vatican City.
Monastery	A place where members of some religious institutes live in a structured communal life of prayer, especially those communities with members known as monks and nuns.
Ministry	In Christian churches, the work of a person appointed and determined by the church.
Non-ordained/lay person	Members of a church who are not ordained clergy, for example, a nun, lay brother or other lay person.
Ordained	In many Christian churches, ordination is the ceremony in which a person is dedicated or commissioned in a specific ministry.
Pastoral Care / Process	In this report, spiritual, social, emotional and material support for individuals or communities. Pastoral Care can include visiting, counseling or otherwise helping people in the parish community who are experiencing a difficult time with a focus on healing, reconciling, guiding and sustaining.
Reconciliation	In the Catholic church, reconciliation (officially called the Sacrament of Penance, and also known as confession) is a sacrament where a person acknowledges sins, seeks forgiveness, and is absolved by the church's minister (a priest).

Provincial/Regional Superior or Leader	An officer of a religious institute (including religious orders and congregations) elected by the members of the institute in a certain region to be their local leader.
Religious vows and profession (or solemn profession)	In the Catholic Church, the act (profession) of making vows - promises made to God to act according to the vows within the 'rule' of a religious institute. The common vows are poverty, chastity, and obedience. Some institutes include other vows specific to their work and life.
Vow of chastity	In the Catholic church, members of religious institutes make a promise to love and serve unconditionally, forgoing all sexual activity.

Legal terms

Acquitted	A finding that an accused is not guilty of a charge.
Admissibility (Admissible Evidence)	Evidence capable of being received by a Court for the purpose of proving a fact in issue, because it is relevant to the proceedings in which it is tendered or adduced.
Appeal	An application to a senior court to change a decision of a lower court or tribunal.
Charges	A charge is a formal statement that a person is accused of having committed a criminal offence.
Complainant	A complainant is "one who lodges a complaint to a decision-maker".
Cross-examination	Where a witness is questioned by the counsel for the opposing party. The purpose of cross-examination is often to challenge the accuracy of the witnesses' evidence.
Crown Solicitor	Crown Solicitors are private legal practitioners appointed on the recommendation of the Attorney-General and by warrant of the Governor-General.

Dismissed	Where a Court dismisses a charge. This can be done at any time before or during the trial, but before the defendant is found guilty or not guilty, or enters a plea of guilty. The court may dismiss the charge on its own motion or on the application of the prosecutor or the defendant.
Extradite / Extradition	An official process allowing for the surrender of a suspected or convicted criminal from one state or country to another.
Filed	An act of formally lodging an application or other documents in a Court.
Liability	In legal terms, it means when a person is subject to a legal responsibility, duty or obligation.
Stay of proceedings	An order made by a Court stopping an action proceeding further either before or after a determination by a Court in respect of the action.
Severance of charges	The singling or severing of two or more charges. This means one or more charges may be heard separately.
Suggestibility	An inclination to readily and uncritically adopt the ideas, beliefs, attitudes or actions of others, particularly 'authority figures'. Suggestibility can be influenced by the authority of the person making the suggestion.

General terms

Absconding	In the care context, the legal term absconding includes leaving or being taken from a placement or the care of a caregiver without authority or neglecting or refusing to return.
Concurrently	At the same time.
Disapprobation	Strong disapproval, typically on moral grounds.
Impunity	Freedom from punishment, harm, or loss.
Religious abuse	Using faith or church beliefs and teachings (including prayer, scriptures and deference to God) to perpetrate abuse and harm, and to discourage disclosure of that abuse and harm.
Societal	Relating to society or social relations.

Vulnerable	Those in the care of St John of God were vulnerable. However, in the care context, a critical distinction to be made is that the vulnerability of certain groups or cohorts does not stem or arise from the characteristics of those groups or cohorts. When we speak about being vulnerable, we do so knowing that the vulnerability stemmed from societal attitudes and prejudice. It was the setting the person was placed in that made them vulnerable to abuse and neglect. Vulnerability is not inherent to any cohort. Our use of the term vulnerable, speaks to the setting, not personal characteristics. This aligns with United Nations direction, which calls for us to pay attention to communities in 'vulnerable situations' or those who are marginalised.

Types of Abuse at Marylands School and Hebron Trust infographic at page 169

This data was provided by Te Rōpū Tautoko (the group coordinating Catholic engagement with the Inquiry), who have categorised the type of abuse using the Aotearoa New Zealand criminal law distinctions as follows:

- **Sexual violation** – is the act of a person who has non-consensual penetrative intercourse or has an unlawful sexual connection with another person.
- **Other sexual offending** – is any other form of sexual offending, that isn't sexual violation.
- **Other/unclear abuse** – where it has not been possible to categorise the abuse.

Aerial map of Marylands School and St Joseph's Orphanage

Marylands School initially operated at a Middleton site from 1955 to 1968

He karakia

Purea, purea, purea nei e te murihau

e kawe nei i ngā wawara hei mamahutanga ake i te huamo tarariki e ngau kino nei

Purea kia wātea, purea kia tukuna, purea kia rere kau noa i te ātawhaitanga o ngā tīpuna

Tukuna kia horoia e te ua, koia rā ngā roimata o Ranginui,

he roimata tangata, he roimata ua.

Waiho mā ngā roimata kia horoia a mahara, kia horoia a tinana hei whakamauru i te mamae e kai kino nei

Tukuna, tukuna, tukuna kia rere kau noa ngā roimata,

Ka mao, ka mao, ka mao te ua kia puta ko te kupu, kia puta ko te pono, ka puta ko te māramatanga

Hikina aku kupu ki runga,

Kia whitiwhitia e te rā

kia rangona e ngā hau e whā

Ka tau, ka tau, ka tau mai te mauri

Haumi e, Hui e, tāiki e.

- Dr Hana O'Regan

Karakia

Let me be washed by the rain, the tears of Ranginui, as many are the tears of man, so too are the tears of the rain.

Leave the tears to wash the thoughts, to wash the body and ease the intensity of pain.

Release and let flow the tears ‘till the rain clears, making way for the words, the truth and understanding to come forth

Lift up my words to be warmed by the sun

To be heard by the four winds

It is done, it is achieved, the mauri settled

Join together, gather together, it is done.

May I be cleansed and uplifted by the gentle breeze

that carries the soft whispers to soothe the bitter grief that gnaws inside

May I be cleansed to be free, to be released, so I may fly in the kindness of my ancestors

- Dr Hana O’Regan

A cross to bear
The nightmare of sexual abuse scandals is unfolding in the Catholic Church in New Zealand. GEOFF COLLETT asks how the Church is going to confront it.
White-collar crime
Dis-orderly conduct
It's not a case of Catholic bashing
Saturday, June 29, 2002
main issue

Abuse in Care
Royal Commission of Inquiry